



**Lewes District Council**

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## **Hackney Carriage and Private Hire Licensing Guidance**

COMMENCES 4 April 2022

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## **Part 1: Introduction**

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

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

In setting out this Guidance the Council seeks to;

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

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

This Guidance will be introduced on 4 April 2022 and will be kept under review and amended as and when necessary to reflect changes in legislation, case law, statutory guidance and best practice.

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

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**

This Guidance will have a phased introduction between 4 April 2022 and 30 September 2022. Apart from 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 Lewes District Council in its licensing function   |
| Driver                         | Refers to a hackney carriage, private hire, dual and restricted driver, unless expressly stated or the context indicates otherwise                             |
| Hackney Carriage               | Means a vehicle licenced under the 1847 Act to stand or ply for hire throughout the district controlled by the Council   |
| He/his                         | shall apply to female equivalent   |
| Plate                          | means the identification plate with the Council's licence reference number fixed to the rear exterior of the vehicle.  |
| Private Hire Operator          | Means a person who in the course of business makes provision for the invitation or acceptance of bookings for private hire vehicles                            |

|                                |   |
|--------------------------------|---|
| Private Hire Vehicle           | A motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers |
| Proprietor                     | Refers to owners of either hackney carriage or private hire vehicles, unless expressly stated or the context indicates otherwise and includes a part proprietor   |
| Restricted Private Hire Driver | Only undertake school transport work in a private hire vehicle. The driver would be responsible for driving a child to and from their school and the licence does not permit the licence holder to undertake any other work.        |
| Vehicle                        | Refers to a hackney carriage or private hire or specialist vehicle, unless expressly stated or the context indicates otherwise.   |

### **Part 3: Vehicles**

#### **Limitation of Numbers**

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

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

#### **Specifications and Conditions**

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

The Council is empowered to impose such conditions as it considers reasonably necessary in relation to vehicles licences. Licence conditions relevant to the type of vehicle are contained in Appendix 1.

#### **Environmental Considerations**

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

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

However, at this time the Council considers that its requirement for all vehicles to be tested every six months means that it does not require tougher emission standards for licensed vehicles 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 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 a certificate of compliance following a satisfactory test both of which must be dated no earlier than one calendar month prior to the licence commencement date. Vehicles that are less than one year old will be exempt from obtaining a current MOT pass certificate but will still be required to obtain a Vehicle suitability test (VST).

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

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

Vehicle Suitability test Inspections are only to be carried out by local authority designated DVSA approved garages.

### **Livery**

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

1. All new applications for Hackney Carriage vehicles will require the vehicle to be white in colour.
2. All new Private hire vehicles to be 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.
4. 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 District.

If the applicant indicates that they will not predominately work within the District 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 the vehicle must be inspected by a DVSA approved garage in the District to determine its fitness. It is the responsibility of the licence holder to

notify the Council that this requirement has been satisfied. The Council may suspend the use of the licenced vehicle until it is suitably repaired and conforms to the testing requirements.

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

### ***CCTV (Implementation date to be confirmed)***

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.
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 secure, 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 to be confirmed.
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.

## **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 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.

## **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 and in working condition to carry wheelchair customers, 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**

The Council does not anticipate granting Livery Exemptions to vehicles that are used for what would be termed 'day to day private hire work' such as, but not limited to - School Runs, Home to Railway Stations, Airports ,Places of interest, hospitality venues , shopping trips etc.

The Council does not consider this type of work to be compatible with the granting of a Livery Exemption. It believes that the vehicle is either 'Livery Exempt' for all work it undertakes or not at all.

In the interests of public safety, which is the main reason for the display of Livery, it does not consider a vehicle should combine exempt and non-exempt work.

There are a number of Private Hire Operators within this and neighbouring Council Areas that provide exclusively ' Executive ' vehicles to satisfy local demand.

### **Dual Plating**

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

## **Part 4: Drivers**

### **Licences**

The Council issues the following types of drivers' licences;

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

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

The only exceptions 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

It is the responsibility of the existing driver to ensure their licence is renewed. Application forms, appropriate fees and supporting documentation must be submitted at least 14 days prior to the expiry of the previous licence.

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

### **Age and Experience**

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

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

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

### **Fit and Proper Test**

The Council has 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 the Council 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, as detailed below. Applicants for a restricted private hire driver's licence are not required to take the local area knowledge test.

#### **1. Knowledge Test**

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

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

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

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

The cost of the first knowledge test is included in the application fee. Each subsequent test is paid for at the time of booking and the fee is non-refundable.

#### **2. Driving Proficiency Test**

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 either their own GP or 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 applicants medical records for at least the last two years. On completion the form must be submitted to the Council.

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

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

### **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.

In the case of new applicants with less than five years residence in the UK a Certificate of Good Conduct must be supplied from the relevant embassy of each and every country where they have lived for a period of more than three months, in addition to an Enhanced Disclosure covering their time in the UK.

In the case of renewal applicants who have been out of the UK for a period of more than six months they will need to provide a Certificate of Good Conduct 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 Section 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 Council 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.

### **National Register of Taxi Licence Refusals and Revocations.**

The Council 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 licence application and will not be retained beyond the determination of that application.

### **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 4.

## **English Language Proficiency Test**

### New Applicants

- a) All new applicants for a Hackney and Private Hire Dual 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 the Council.
- c) An outline of the test requirements can be found at appendix (10)

### Current Drivers

- a) Current drivers appearing before the Licensing Sub 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.

## **Safeguarding Training**

All new applicants and current licensed drivers are required to undertake recognised Disability Awareness and Safeguarding training as part of their professional development. The Training must be provided by an agreed supplier 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. Existing Lewes District Council licensed drivers that have not previously undergone recognised Disability Awareness/Safeguarding training must attend a session within 12 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.

## **Offences**

Existing holders of driver's licences are required to notify the Council 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.

'How Did I Do' stickers are mandatory for all licensed vehicles and must be placed on the dashboard on the passenger side and on either the headrest of the driver's seat or passenger's seat facing the passengers. These stickers will be provided by the Council's Licensing Team.

## **Conditions**

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

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

### **Duration**

The Council will licence drivers in accordance with the conditions 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 a current 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 12 months

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 Council 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.

### **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 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 district. This is to ensure that proper regulation and compliance measures may be taken by the Council and is in no way intended to be a restraint of trade.

### **Sub-contracting of Private Hire Bookings**

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

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

### **Right to Work**

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

### **Licence Duration**

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

### **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 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 or cover note
- Vehicle suitability test

### **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 and Safeguarding.

### **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 licence holder 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.
- l. Sections l – 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.

### **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 District, at the licence holder's expense, and the vehicle meets the requirements of this Guidance.

## **Drivers**

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

## **Revocation**

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

## **Refusal to Renew**

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

## **Section 68 (Stop) Notices**

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

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

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

## **Cautions and Fixed Penalty Notices**

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

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

## **Prosecution**

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

- Blatant or repeated disregard for legislation and/or this Guidance, particularly where the economic benefits for the breaches are substantial

- When there has been blatant and/or reckless disregard for the safety of passengers or other road users

## **Part 8: Equalities and Accessibility**

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

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

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

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

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

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

All licensed drivers are under a legal duty to carry guide, hearing and any other assistance dogs in their vehicles without additional charges 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 Council 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.

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 he 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 following a formal proposal from the Trade evidencing that at least 51% of the trade are in support. Before setting the fares the Council will follow the appropriate procedures detailed in the 1976 Act.

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

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

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

The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised fares will be provided to each hackney carriage

licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

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

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. In the case of a metered fare, the starting point for engaging the meter must be agreed at the time of booking.

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

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 debit or credit card, cheques, or BACS payments. Cheques must be payable to Lewes District Council.

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

### **Refunds and Duplicate Copies**

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

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

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

### **Part 11: Appeals**

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

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

#### **Contact Us;**

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BN7 1AB

Web Site: [www.lewes-eastbourne.gov.uk](http://www.lewes-eastbourne.gov.uk)

E mail: [customerfirst@lewes-eastbourne.gov.uk](mailto: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.

### **Identification Plate**

5. 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.
6. On written application the Council may exempt certain specialist or executive vehicles from the need to display external plates, and operator identification.
7. 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**

8. Hackney Carriages must be fitted with an illuminated external roof mounted sign. The sign may either display the word 'Taxi', or the words 'For Hire'. The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public. The roof sign must be switched off when the vehicle has been hired and illuminated when available for hire.
9. 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.
10. 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.

11. No other signs will be permitted to be displayed anywhere on the vehicle without the written permission of an Authorised Officer.
12. 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.

### **Miscellaneous**

13. 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.
14. A suitable First Aid kit shall be provided and maintained in the vehicle at all times when in use or available for hire.
15. 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.
16. The proprietor shall notify the Council in writing of any change of his address within seven days of such change taking place.
17. 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.
18. 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.
19. 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.
20. 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)
21. Where payments for journeys by credit/debit card are accepted, it is not permissible to set a minimum card payment amount.

22. 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, 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 Licensing Authority citing what is considered to be an 'exceptional circumstance'. Financial matters nor the condition of the vehicle come in to this category and will not be considered in the determination.

**CCTV (*Implementation date to be confirmed*)**

23. The Council considers that the security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent.
24. 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 date by - to be confirmed.
25. 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.
26. The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.
27. 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.
28. 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.
29. 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.
30. 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.

31. 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.
32. 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.
33. The CCTV system must be capable of recording and storing images for a minimum of 28 days.

## Appendix 2: Byelaw

### LEWES DISTRICT COUNCIL

#### BYELAWS

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

#### Interpretation

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

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

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.  
  
(b) A proprietor or driver of a hackney carriage shall:
  - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
  - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

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

3. The proprietor of a hackney carriage shall:
  - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
  - (b) cause the roof or covering to be kept watertight;
  - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
  - (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;

- (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
  - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use; and
  - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say:-
- (a) the taximeter shall be fitted with a key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
  - (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
  - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
  - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
  - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
  - (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

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

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

- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half an hour after sunset and half an hour before sunrise and also at any other time at the request of the hirer.
6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
- (a) proceed with reasonable speed to one of the stands appointed by the Council pursuant to Section 63 of the Local Government (Miscellaneous Provisions) Act 1976;
  - (b) if a stand, at any time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
  - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
  - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. A proprietor or driver of a hackney carriage when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place

shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
  - (a) convey a reasonable quantity of luggage;
  - (b) afford reasonable assistance in loading and unloading; and
  - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

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

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

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

15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provisions securing the safe custody and redelivery of any property accidentally left in hackney carriages and fixing the charges to be made in respect thereof.**

16. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
  - (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to a police station in the district and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
  - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station in the district, whichever be the greater) but not more than five pounds.

**Penalties**

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

**Repeals**

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

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

THE COMMON SEAL of LEWES DISTRICT COUNCIL was hereunto affixed in the presence of:- LS 27/01

**C. F. W. Bailey**  
**Senior Solicitor**

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

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

Link to Hackney Carriage Byelaw is [here](#) or can be viewed on [www.lewes-eastbourne.gov.uk](http://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 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 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 Operators 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;
  - the name of the passenger;
  - contact telephone number 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 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
  - 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, to the licence holder.
11. The operator must not accept a request for hire (a booking) which has been communicated to them via a driver. For clarification, the operator must not accept a booking made by a driver on behalf of a potential customer where the person approached the driver in the street seeking to hire the vehicle.
12. The operator must ensure that none of his staff or agents tout for business on the street, touting in this context means approaching any person in the street and asking if they want to book a vehicle.
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 District 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 than the maximum number specified on their licence. If the number of vehicles they operate significantly increases during the period of their licence the operator shall apply to the Council for a variation and an amended licence fee (pro rata to reflect the increase) will apply for the remainder of their licence.

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 from his business he reasonably considers the Council should be aware of. Such notification must include the action taken or proposed as a result of the complaint.
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. Currently Private Hire Operators who are not also licensed drivers are required to provide a basic DBS Disclosure certificate every 3 years. The Authority will require this check to be completed annually.
26. 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.

27. 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.
28. 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.

## **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

### 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:

The test used by the Council 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.

- 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. Any offences or behaviour not expressly covered by this Guidance may still be taken into account.
- 6.5 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.

6.6 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.

6.7 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) 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.

#### **18.0 Outstanding charges or summonses**

- 18.1 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.
- 18.2 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

## **21.0 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.

## **22.0 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.

# **Lewes District 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                        | ✓             |                                  |
|    | <b>Details of the misconduct</b>   | <b>Points Applicable</b> | <b>Driver</b> | <b>Vehicle Owner or Operator</b> |
| 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                        |               | ✓                                |
| 22 | Failure to carry 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                            |               | ✓  |
|    | <b>Details of the misconduct</b>  | <b>Points<br/>Applicable</b> | <b>Driver</b> | <b>Vehicle<br/>Owner<br/>or<br/>Operator</b> |
| 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                            | ✓             | ✓  |
| 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* | ✓ | ✓ |

\*- 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

Officers may refer any mandatory award of points to Members where there are aggravating features to a case.

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.