

# **Cumberland Council**

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

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*Hackney Carriage and Private Hire Policy*

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**This policy shall apply to existing licence holders and new applicants.**

**Parts of this policy will be phased in for existing licence holders. Please refer to each relevant section for details.**

**This policy will take effect from 1<sup>st</sup> April 2025.**

## **Definitions**

**Applicant** - Person or business who has submitted an application for either a grant or renewal of a licence.

**Application** - A completed application made by an individual (or individuals) for the grant or renewal of a licence.

**Assistance Dog** - a dog which has been trained to guide a blind person; a dog which has been trained to assist a deaf person; a dog which has been trained by a prescribed charity to assist certain disabled persons.

**Authorised Officer** - A Council officer who is authorised by the Council to exercise powers and duties conferred by legislation.

**Badge** - Issued to all licensed drivers and must be worn at all times when working as a licensed driver.

**Byelaws** - Locally adopted laws applicable to Hackney Carriage drivers. Breach is a criminal offence.

**Code of Conduct** - A behaviour code for drivers.

**Conditions** - Conditions of licence applied by the Council to a driver's licence, an operator's licence, or a vehicle licence. Non-compliance may lead to penalty points being imposed or action against the licence.

**Continually licensed** - An uninterrupted licence without lapse due to revocation, voluntary surrender, cancellation or non-renewal.

**Controlled District** - Area of a local authority which has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976. This is the area of Cumberland Council.

**Conventional partnership** - An arrangement where 2 or more people are in business together, but which is not a Limited Liability Partnership.

**Council** - The Cumberland Council.

**Councillor** - A councillor who is a member of the Cumberland Council.

**Date of First Registration** - The date of first registration on the vehicles V5 log book issued by DVLA.

**DBS** - Disclosure & Barring Service.

**DfT** - Department for Transport.

**District** - This is the terminology used in the Local Government (Miscellaneous Provisions) Act 1976 to refer to the area of the Council.

**Door Signage** - Council issued door signage which must be affixed to the rear doors of all licenced vehicles.

**Driving licence** - Full UK driving licence issued by DVLA, Northern Ireland driving licence, EEA driving licence or exchangeable driving licence as defined in section 108 of the Road Traffic Act 1988.

**DVLA** - Driver and Vehicle Licensing Agency.

**DVSA** - Driver and Vehicle Standards Agency (which replaced VOSA in 2014). DVSA was the successor to the DSA as well as to VOSA. The two former Government agencies merged as one.

**Equality Act** - Equality Act 2010 as amended.

**Guidance** - Guidance published or issued by the Government via the Department for Transport or any other Government Department.

**Hackney Carriage Vehicle** - A vehicle licensed under the Town Police Clauses Act 1847 often referred to as a taxi.

**Hirer** - Any person or persons who from time-to-time hires or books the vehicle.

**HMRC** - His Majesty's Revenue and Customs.

**ICO** - Information Commissioners Office.

**IoL** - Institute of Licensing.

**LGA** - Local Government Association.

**Legislation** - A law or a set of laws that have been passed by Parliament.

**Licensing Authority** - The licensing function within Cumberland Council.

**Licensed Driver** - A driver licensed under the Town Police Clauses Act 1847 to drive a Hackney Carriage vehicle and under the Local Government (Miscellaneous Provisions) Act 1976 to drive a Private Hire vehicle.

**Licensed Operator** - A person, persons or company holding a licence to operate private hire vehicles issued pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976. A private hire operator's licence is required to enable a person to accept or invite bookings for private hire vehicles.

**Licensee(s)** - The person(s) or company/firm named in the licence.

**Licence Plate** - The plate that licensed vehicles must display showing the licence number, maximum number of persons to be carried, expiry date, vehicle registration number, and make and colour of vehicle.

**Licensed Vehicle** - Vehicle licensed under Town Police Clauses Act 1847 as a Hackney Carriage or licensed under the Local Government (Miscellaneous Provisions) Act 1976 as a private hire vehicle.

**Limited Company** - A company registered with Companies House.

**Limited Liability Partnership** - An incorporated partnership registered with Companies House.

**Member** - See councillor. The terms “councillor” and “member” are interchangeable.

**NR3S** - A database of refusals, revocations and suspensions for drivers' licences. This applies to drivers whose licences are suspended, revoked and applications for grants or renewals which are refused.

**Officer** - An employee of the Cumberland Council or another individual acting in the same capacity as an employee e.g. an independent contractor.

**Operator** - See licensed operator.

**Policy** - This policy document and all associated documents.

**Private Hire Vehicle** - A vehicle licensed by Cumberland Council under the section 48 Local Government (Miscellaneous Provisions) Act 1976.

**Proprietor** - Registered owner or part owner of a vehicle.

**PSV** - Public Service Vehicle.

**Public Place** - An area that the public can have access to at anytime day or night.

**Regulatory Committee** - The committee which determine licensing policy matters as set out in the Cumberland Council constitution.

**Regulatory Sub-Committee** - The sub-committees make decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.

**Road Traffic Acts** - Road Traffic Act 1988 and all associated legislation.

**Stretched Limousine** - Any vehicle that has been modified after manufacture with an additional body section, extending the vehicle length.

**Table of Fares** - A card which must legally be displayed in Hackney Carriage vehicles that are fitted with a taximeter which indicates the maximum authorised fare to be charged for distance travelled, waiting time and additional charges determined by the Council. This is issued by the Council.

**Taximeter** - Device used for calculating the fare to be charged for the journey by measuring distance travelled plus any time waiting. This must be fitted in all Hackney Carriage vehicles and may be fitted in private hire vehicles.

**The 1847 Act** - The Town Police Clauses Act 1847 as amended and all associated legislation and the provisions within.

**The 1976 Act** - The Local Government (Miscellaneous Provisions) Act 1976 and the provisions within.

**WAV** - Wheelchair Accessible Vehicle. WAVs are vehicles that have been manufactured or converted to be suitable for carrying a person in a wheelchair.

**Working day** - Any day other than a Saturday, a Sunday, Christmas day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

## Introduction

- 1.1 This policy has been published and adopted by the Council to inform and assist the discharge of its functions in relation to Hackney Carriage and private hire licensing under the powers and duties contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and all associated and related legislation. This includes byelaws in relation to Hackney carriages. The Council is responsible for the licensing of Hackney Carriage and private hire vehicles, drivers and operators.
- 1.2 In common with all other Council documentation, this policy is written in plain English, as far as possible. Where technical terms are used they will be explained clearly, and there is a list of definitions at the beginning. Any reference to external material (legislation, guidance, court decisions etc) will be clear and should be easily accessible.
- 1.3 This policy has been drawn up with reference to the DfT statutory taxi and private hire vehicle standards and the DfT taxi and private hire vehicle licensing best practice guidance for licensing authorities in England.
- 1.4 Transport systems and Hackney Carriage and private hire use is expected to remain important and integral to the infrastructure of the District.
- 1.5 This policy has been adopted by the Council following consultation and reference to the Regulatory committee and the executive. Responsibility for Hackney Carriage and private hire licensing is split between the Council and the executive. Council functions are delegated to the regulatory committee and officers: executive functions are delegated to officers, in both cases in accordance with the Council's Constitution.
- 1.6 Table of delegations

<b>Authorised by</b>	Colin Cox, Director of Public Health and Communities
<b>Date last updated</b>	

<b>Delegated Matter</b>	<b>Officer Level</b>
To authorise persons to enter premises under any enactment or power for which the Director of Public Health and Communities is responsible.	Assistant Director Regulatory Services Manager Head of Public Protection
To appoint inspectors and authorised officers (including for the issue of fixed penalty notices) as required by legislation for the purposes of public protection and health.	Assistant Director Regulatory Services Manager Head of Public Protection

Delegated Matter	Officer Level
Following consultation with the Chief Legal Officer, to institute proceedings under any of enactment or power for which the Director is responsible.	Assistant Director Regulatory Services Manager Head of Public Protection
<p><b><u>Licensing</u></b></p> <p>Functions in respect of all licensing matters, including the service of any notice or order, the exercise of any powers of entry and the taking of any other action, but only to the extent that they have not been reserved to Council, Leader and Executive or a Committee:</p> <p>To deal with all matters, and exercise every function, and power, including enforcement, as prescribed under the Town Police Clauses Act 1847 (as amended), Local Government (Miscellaneous Provisions) Act 1976 (as amended) and other relevant legislation, relating to hackney carriage, private hire drivers, proprietors and vehicles, and private hire operators, including:</p> <ul style="list-style-type: none"> <li>• To Licence (first grant and renewal) all hackney carriage and private hire related licences (drivers, vehicles and operators) – where the application is in compliance with HC &amp; PH Policy</li> <li>• To refuse (first grant and renewal) all hackney carriage and private hire related licences (drivers, vehicles and operators) – where application does not comply with the HC &amp; PH Policy</li> <li>• To suspend or revoke all hackney carriage and private hire related licences but only on the grounds of public safety.</li> </ul>	Assistant Director Regulatory Services Manager Head of Public Protection Licensing Manager Senior Licensing and Land Charges Officer Senior Specialist - Licensing & Compliance

1.7 This policy will be kept under review and revised as necessary. The Director of Public Health is authorised to make minor amendments to the policy. In addition, amendments to this policy may be authorised by Cumberland Council without consultation.

1.8 In carrying out these functions, the Council will comply with the law and also have regard to this policy document and any relevant Guidance published by the Department for Transport and any other relevant Guidance issued by any Government Department. In any situation where the Council departs from this policy, clear reasons will be given for doing so. In any case where a situation or matter is not covered by this policy, the matter will be considered from first principles i.e. as if this policy did not exist, and the decision will be based on the Councils' interpretation of the law and Guidance.

- 1.9 The Council is committed to ensuring that members and officers involved in Hackney Carriage and private hire licensing are fully trained, and such training is regularly updated.
- 1.10 This policy contains “bright lines”. These are firm statements of intent which may appear to be absolute. Such statements are lawful and allow the Council to provide robust guidance to itself, applicants, licensees and citizens on the approach that will be taken. They do not fetter the discretion of the Council because each case will be considered in accordance with the law on its merits but in the light of this policy.
- 1.11 Where this policy differs from the previous policy, consideration will be given by the Council to licences that were granted or renewed before this policy was adopted. There is no guarantee that any licence will be renewed and the Council will consider all new and renewal applications in the light of this policy. The fact that a licence has been granted in the past will be taken into account and will be a relevant consideration, but there is no legitimate expectation that any Hackney Carriage or private hire licence will be renewed (See *R. (on the application of Wilcock) v Lancaster City Council* [2014] L.L.R. 388 CA). This policy will also be used to inform action that may be taken against any existing licence.
- 1.12 Hackney Carriage and private hire law is long overdue for wholesale revision, but the Government has indicated that at present it has no intentions of embarking on that task, although some limited developments have been announced. As and when these become law the policy will be amended to take account of their effects. In recent years there have been a number of minor amendments to the legislation, and other legislation that impacts upon Hackney Carriage and private hire licensing.
- 1.13 In 2015 the Deregulation Act of that year introduced some amendments to the Local Government (Miscellaneous Provisions) Act 1976, the most significant of which was the ability for a private hire operator to subcontract to another private hire operators licensed anywhere in England, Wales, Scotland or Greater London.
- 1.14 The introduction in 2016 of more of the provisions relating to Hackney Carriages and private hire vehicles contained within the Equality Act 2010, and the additional amendments introduced by the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 has improved the access to and use of these vehicles for those with disabilities, and the Council works actively to support both those who require and provide such transport. Again the effect of this legislation is considered in detail in part?? below
- 1.15 The policy, application forms and current fees are available on the Council’s Website.
- 1.16 Council staff involved in Hackney Carriage and private hire licensing and other associated functions will always be polite, courteous, civil and professional. The same standards of behaviour are expected from applicants and licensees and the Council has a policy of zero tolerance to any abuse, bullying, violence or similar behaviour



towards staff or councillors. Any such behaviour on the part of an applicant or licensee will be taken into account when considering whether a licence should be granted, or whether action should be taken against any existing licence.

- 1.17 The Council recognises its duties and responsibilities under the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679. Full details of the privacy policy and the specific policy for taxi licensing are detailed on the Council's website.
- 1.18 Any legislation is pointless without enforcement of its provisions, and in doing so the Council will have regard to its enforcement policy.
- 1.19 The Council also has reciprocal arrangements with other local authorities to enable action to be taken in relation to vehicles and drivers licensed elsewhere, and Cumberland vehicles and drivers being used elsewhere.

### **Implementation of policy**

- 1.20 **Vehicles** – Vehicles are licensed for 1 year. The current conditions across the 3 legacy councils are not changing significantly but will have a change of test criteria. The proposal for vehicles removes the upper age limit. The proposal is from 1 April 2025 that existing licensed vehicles meet the new criteria on renewal of licence. Vehicles first licensed will be required to meet the new conditions from 1 April 2025.
- 1.21 **Operators** – Operators are licensed for 5 years. The changes proposed include the requirement for a Basic DBS unless the operator is also a licensed driver. The proposal is that the new conditions apply from 1 April 2025.
- 1.22 **Drivers** – Drivers are licensed for a 3 year period. The changes proposed are summarised in appendix 3. The proposal for drivers is that for new applicants the conditions apply from 1 April 2025. For existing drivers the proposal is to apply at renewal of licence except where existing certificates for medicals and DBS require updating before the date of renewal of the drivers licence. In these cases the new conditions will apply for medicals and DBS and all other conditions will then apply. For those drivers who renew before 1 April 2027 there will be a lead in period of 6 months to complete training as it is recognised that the availability of training is not within the control of the drivers.

### **Council Service Standards**

- 1.23 Subject to unforeseen circumstances beyond the control of the Council, the Council will endeavour to maintain the following service levels:
- 1.24 Licensees and applicants should be able to contact the licensing team by email, through the website, by appointment in person, or by phone. However, the preferred method of contact is via email to reduce the need for licence holders to travel to the

Council offices and to allow the team to deal with enquiries as effectively as possible.

- 1.25 The Licensing section can be contacted by phone on 0300 373 3730 Mondays to Fridays. They can also be contacted by email at: [licensing1@cumberland.gov.uk](mailto:licensing1@cumberland.gov.uk) (legacy Allerdale) [licensing2@cumberland.gov.uk](mailto:licensing2@cumberland.gov.uk) (legacy Carlisle) or [licensing3@cumberland.gov.uk](mailto:licensing3@cumberland.gov.uk) (legacy Copeland).
- 1.26 The Council will always aim to issue a licence within 28 days from receipt of a valid application, but will always attempt to issue them more quickly. A valid application means the complete application, all relevant documents and the fee. Most documents will be accepted via email but originals must be provided if requested. If any referrals are made to the Regulatory Sub-Committee then the timescale will exceed 28 days.
- 1.27 If you have any concerns or complaints about the service you have received, please contact the Licensing Section on 0300 373 3730 or by email at [licensing1@cumberland.gov.uk](mailto:licensing1@cumberland.gov.uk) [licensing2@cumberland.gov.uk](mailto:licensing2@cumberland.gov.uk) or [licensing3@cumberland.gov.uk](mailto:licensing3@cumberland.gov.uk). If you are still not satisfied, please use the Council complaints procedure, details of which can be found here [www.cumberland.gov.uk](http://www.cumberland.gov.uk)

## Background

- 1.28 Hackney Carriage and private hire vehicles have an important role to play in the transport system. They are able to provide services in situations where local public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), and/or for those with mobility difficulties.

## Practice, guidance & legislation

- 1.29 The Department for Transport (DfT) has national responsibility for Hackney Carriage and private hire legislation and policy in England. They also provide guidance for local licensing authorities. Their principal document is *the 'Taxi and Private Hire Vehicle Licensing best practice guidance for licensing authorities in England'* (referred to as "Best Practice Guidance" in this Policy<sup>1</sup>). This is supplemented by the '*Statutory taxi and private hire vehicle standards*' (referred to as "Statutory Standards" in this Policy<sup>2</sup>). They have been taken into account in preparing this policy.
- 1.30 The DfT guidance recognises and emphasises that licensing authorities can reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances.

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<sup>1</sup> Available at <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance> . This dates from 2023

<sup>2</sup> Available at <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards> . This dates from 2020

- 1.31 This policy takes account of the law which forms the basis of the Council's taxi licensing functions. The principal pieces of legislation are the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 both as amended. In addition the Senior Courts (High Court and Court of Appeal) have handed down judgments which explain and interpret this legislation.
- 1.32 Reference will also be made to the Institute of Licensing (IoL) guidance.

### **Purpose of Hackney Carriage & Private Hire Licensing**

- 1.33 The sole consideration in relation to the licensing of Hackney Carriage and private hire vehicles is public safety (See DfT Best Practice Guide). Public safety includes the safety of drivers, operators, vehicle proprietors and their staff as well as the users of Hackney Carriage and private hire vehicles, and the wider public. The public must have confidence in the safety of Hackney Carriages and private hire vehicles as a form of transport and as a consequence the highest standards will be expected from all applicants and licensees.
- 1.34 Public safety includes safeguarding which also includes prevention of child sexual abuse and exploitation (CSAE). All licensees will be expected to demonstrate an understanding of public safety and safeguarding and ensure that their actions do not infringe those requirements at any time. Any member of the public, licensee, officer or member who becomes aware of any safeguarding issues, or any other criminal behaviour related to Hackney Carriage and private hire licensing should inform the Council and be secure in the knowledge that the Council's whistleblowing policy will be used to take all reasonable steps to protect them.

### **Policy objectives & aims**

- 1.35 As already stated, this policy is intended to enable the Council to provide a robust licensing regime which enables the Hackney Carriage and private hire trades to provide the best possible service to the public with the overriding aim of maintaining and improving public safety.

### **Objectives**

- 1.36 The objectives of this policy are:
- a) the protection of the public
  - b) the maintenance and development of professional and respected Hackney Carriage and private hire trades
  - c) enabling access to an efficient and effective local transport service
  - d) the protection of our local environment.
  - e) to support all Hackney Carriage and private hire businesses by ensuring a consistent and fair approach

- f) improving public understanding of the hackney carriage and private hire vehicle regimes.

## **Aims**

- 1.37 The Council will aim to achieve these objectives in the following ways:
- a) by ensuring that licensed drivers are safe and suitable persons and achieve and maintain the highest standards of professional practice
  - b) by ensuring that licensed vehicles are safe for passengers, drivers and other road users, and properly insured
  - c) by ensuring that licensed vehicles comply with all Council standards at all times
  - d) by checking all documents provided as part of an application for authenticity, including contacting the maker of the document and other tests.
  - e) by specifying emissions standards and encouraging the use of low polluting vehicles
  - f) by encouraging the use of more vehicles that are accessible to disabled people
  - g) by ensuring that licensed vehicles are comfortable
  - h) by working across the Council to ensure that Hackney Carriages and private hire vehicles form part of wider strategic transport and local transport plans
  - i) by working in partnership with a variety of other agencies to support the Council's objective in relation to both the public and the trade
  - j) by reducing the frequency with which licence holders are required to attend the Council offices
  - k) by ensuring online accessibility to allow remote application by new and existing licence holders, so far as is permissible under the legislation
  - l) by utilising electronic and mobile communication methods and other technological methods including web sites

## **Methods**

- 1.38 The methods the Council will use to achieve this will include (but this is not an exhaustive list)
- a) working with the Hackney Carriage and private hire trades to deliver continuing improvements, encourage innovation, and deal with emerging issues
  - b) setting the standards for the licensing of vehicles, drivers and operators
  - c) use of the NR3s database (The National Register of Refusals, Revocations and Suspensions)
  - d) assessing knowledge of the District, highway code and licensing policy as well as driving ability (at the time of application)
  - e) annual licensing and routine inspection of vehicles, with appropriate follow-up action including enforcement
  - f) routine inspection of documents, with appropriate follow-up action including enforcement
  - g) routine checks of driver's medical fitness and criminal record history during the time the licence is in force
  - h) timely investigation of complaints with appropriate follow-up action

- i) liaison with the **Cumbria Constabulary** and other constabularies as required. Neighbouring local authorities and other agencies concerning issues of concern relating to public safety
- j) robust enforcement policy (taking account of the Regulators Code) including, monitoring of contraventions, suspension or revocation of licences for breach of conditions or legislation and prosecution
- k) regular training and development of Council officers and members
- l) meeting continuing performance and efficiency targets for the service
- m) provision of information to licensees about good practice and what to expect from any inspection or assessment
- n) provision of mandatory training (not necessarily at no cost) for applicants and licensees when considered necessary
- o) promotion of training courses and information for licensees,
- p) promotional activities to inform and encourage and maintain high standards

1.39 To achieve this the Council will actively cooperate with, assist and provide and obtain advice from a wide range of agencies including (but not limited to):

- a) The Cumbria Constabulary and other constabularies including British Transport Police
- b) Driver and Vehicle Standards Agency
- c) Other local authorities
- d) Town and Parish Councils
- e) National Rail and other railway companies
- f) Disclosure and Barring Service
- g) Department for Transport
- h) Driving and Vehicle Licensing Agency
- i) Home Office
- j) Department for Work and Pensions
- k) Other relevant agencies and departments

### **Uniformity**

1.40 The Council will conduct its functions in relation to Hackney Carriage and private hire licensing in a consistent and uniform manner and will take a reasonable and proportionate approach to enforcement action.

### **Applications and licences**

1.41 Hackney Carriage and private hire licences can be granted for a maximum period of time. Those maximum periods are

- Hackney Carriage vehicle - 1 year;
- Private hire vehicle - 1 year;
- Hackney Carriage driver - 3 years;
- Private hire driver - 3 years;

- Private hire operator - 5 years.

and in general licences of those durations will be granted.

- 1.42 The Council will issue dual or combined drivers' licences. This will constitute a licence to drive both a Hackney Carriage and a private hire vehicle.
- 1.43 Applicants for licences must submit a complete application. A complete application means that the application form has been properly completed, with all required information provided, all supporting documentation that is required has been submitted including the fee.
- 1.44 If a renewal application is made which is not complete, the applicant will be contacted and given an opportunity to rectify the problems. Any such application will be held on file for 1 month during which time additional and/or updated information can be provided to enable the application to proceed. After 1 month would be refused and a new application would need to be made in its entirety.
- 1.45 Applications for renewals of licences must be received before the expiry of the current licence. Any application received after that date will be treated as a new application. This will extinguish any grandfather rights and the applicant will have to comply with all requirements for a new licence.
- 1.46 As part of the application process for drivers, they will have to attend certain appointments at the Council Office. If the date and time provided is inconvenient, the applicant should contact the Council as soon as possible to arrange an alternative date and time. Failure to attend appointments without having notified the Council within 24 hours prior to the appointment may lead to the entire application being refused and a fresh application may have to be commenced.
- 1.47 The Council will aim to issue a licence within 28 days of a completed application being received, but this may be delayed due to circumstances beyond the control of the Council. Where an application has to be considered by the Regulatory Sub-Committee this will extend this timescale. Temporary licences will not be issued.
- 1.48 Licensees must ensure that they notify the Council immediately of any change of address, change of name, or alterations to means of contact (change of telephone numbers or email addresses). Failure to do this may lead to important communications not being received which in turn may lead to licences expiring or action being taken against licences without the knowledge of the licensee. Any notice required to be served by the Council under this licence or under any statutory provision shall be deemed to have been properly served if sent by pre-paid post to, or left at the last known address of, the holder of the licence.

- 1.49 All information held on files and databases about an applicant is confidential, under the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679. However, this information can be used (“processed”) by the Council as part of the application process and used within the Council. This will include communicating information to relevant officers and members who are involved in any decision-making process. In addition, the Council is under a duty to protect the public and to protect the public funds it administers, and may use any information provided by an applicant for this purpose. This may include sharing this information with other agencies where that is lawful.
- 1.50 The legislation requires the Council to maintain Public Registers, which will be available for inspection at Council offices and also via the Council’s website. That duty overrides any data protection protections.
- 1.51 Full details of the Council’s privacy policy and the specific privacy policy for Hackney Carriage and private hire licensing can be found here [www.cumberland.gov.uk](http://www.cumberland.gov.uk).
- 1.52 It is a privilege to hold a Hackney Carriage or private hire licence and licensees have responsibilities to their passengers (drivers) and customers (drivers, operators and proprietors), other road users (drivers and vehicle proprietors) and the public generally. The requirement to satisfy the Council that the applicant is a safe and suitable person continues throughout the duration of the licence. If at any time a licensee falls below the standards expected of a new applicant, the Council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence.
- 1.53 Licensees must be aware of this and be familiar with the requirements placed upon them by the legislation, the conditions of their licence and this policy.

## **Fees for Licences**

- 1.54 The Council can charge a fee for each of these licences. Those fees are calculated in accordance with the legislation, and there are 2 fee levying powers, depending on the particular licence in question.
- 1.55 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 covers drivers’ licences, and section 70 covers private hire and Hackney Carriage vehicle licences, and private hire operators licences.
- 1.56 Fees are calculated on a cost recovery basis, so far as the law allows that to occur.
- 1.57 The costs include the costs of:
- a) processing applications;
  - b) issuing licences;
  - c) providing badges and vehicle plates (as required);

- d) providing additional vehicle signage;
  - e) ensuring compliance with the requirements of the licence.
- 1.58 Additional costs will apply to various pre-application requirements. The requirements are detailed at the relevant chapters below. The details of any situations in which refunds can be made are detailed in each section below.
- 1.59 All licence fees must be paid by credit/debit card on application.
- 1.60 If a licence is surrendered, revoked or suspended, no refund of the licence fee will be made.

### **Appeals**

- 1.61 There are statutory rights of appeal contained within the legislation. These are against decisions to refuse an application, refuse to renew a licence, suspension or revocation of a licence and also against any conditions that the Council has attached to a licence. The rights will be detailed on any decision notice which is issued where there is such a right of appeal.
- 1.62 In almost every case the right of appeal is to the magistrates' court and contact should be made with that court for details on how the appeal is commenced. The one exception to that is a refusal to grant a new Hackney Carriage proprietors licence where the right of appeal is directly to the Crown Court. Again, in those circumstances contact should be made with the court for details on how the appeal is commenced.
- 1.63 The appeal period is 21 days from the date on which the written notice of the Council's decision was received. That period cannot be extended so anybody who is considering appealing should ensure that the appeal is lodged with the court as soon as possible.
- 1.64 Such appeals are fresh hearings with the court in the position that the Council was, and the court will reconsider the decision. In such appeals, the Council will resist the appeal as they have already made a decision on the matter. As part of the appeal, the court will take account of the decision that the Council made, but other evidence can be presented by both the appellant and the Council. The court will come into its own independent decision but should not readily overturn the Council's decision. If the appeal is unsuccessful the Council will make an application to the court for its full costs to be paid by the unsuccessful appellant. If the appeal is successful, the Council will resist any application that is made to the court for an award by the appellants that the Council should pay their costs (This follows the ruling of Supreme Court in Competition and Markets Authority v Flynn Pharma Ltd [2022] LLR 668 SC).

### **Suitability of applicants**

- 1.65 The legislation makes it quite clear that the Council cannot grant a drivers' licence or a private hire operators' licence unless they are satisfied that the applicant is a safe and suitable person. It is for the applicant to prove that they are a safe and suitable person, and not for the Council to prove that they are not.



- 1.66 In relation to a Hackney Carriage or private hire vehicle (proprietors) licence there is no statutory requirement for the Council be satisfied that the applicant is a safe and suitable person. However the Council has an absolute discretion as to whether or not to grant such a licence and in addition to considering the vehicle itself, the Council will also take into account the suitability of the applicant.
- 1.67 The Council has taken guidance produced by the Institute of Licensing into account in producing this policy<sup>3</sup>. This suggests that the phrase “fit and proper” can be explained and be more easily understood by using the term “safe and suitable”. This is the term that the Council will use throughout this document and it should be read to mean fit and proper.
- 1.68 That guidance also contains guidelines on suitability which are almost identical to the DfT guidance in “Statutory Standards”. These have been incorporated into this policy and form the basis of the previous convictions policy. This is contained at section 3.
- 1.69 Ideally, all those involved in the Hackney Carriage and private hire trades (Hackney Carriage and private hire drivers, Hackney Carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 1.70 However it is recognised that some applicants and licensees will have criminal convictions or other matters in their personal history which may affect the safety and suitability to hold a Hackney Carriage or private hire licence.
- 1.71 The previous convictions policy at section 3 provides guidance in some cases. These standards will be used in relation to all licences: driver, operator and proprietor. This is to ensure that the standards are maintained across the trades, and to reassure the public that only safe and suitable people are licensed for any role in the Hackney Carriage or private hire vehicle industry.
- 1.72 In all cases every application will be considered in accordance with the law, on its own merits, but in the light of the previous convictions policy. If the previous convictions policy does not cover the particular matter then a decision will be made from first principles where the question will be whether, in the light of that information the Council can be satisfied that the applicant is a safe and suitable person to be granted that licence.
- 1.73 The decision as to whether or not a licence should be granted is made on the facts at the time of that decision, but the Council has powers to take action against any licence

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<sup>3</sup> “Guidance on determining the suitability of applicants & licensees - hackney & private hire trades” Institute of Licensing 2018 available at <https://www.instituteoflicensing.org/Publications.aspx>

that has been granted (the licence can be suspended, revoked, or the Council can refuse to renew it). It is vitally important that licensees understand that the test of safety and suitability is not simply to be met when the application has been granted: it is a continuing requirement and if at any time during the currency of the licence the behaviour or conduct of the applicant falls below that which would be acceptable for a new applicant, the Council will consider whether or not action should be taken against that licence.

1.74 At all times the sole consideration will be public safety.

### **Behaviour of licensees**

1.75 All licensees (drivers, operators and vehicle proprietors) are professionals undertaking a highly responsible activity which protects and ensures the safety of their passengers, customers, other road users and the public at large.

1.76 The highest standards of integrity and behaviour are expected, and these must be maintained at all times. The Council is concerned with the overall character of licensees, and not simply when the licence is being used. As a result, any behaviour at any time which falls short of the standards expected will lead to the Council considering whether that licensee should be allowed to retain their licence.

1.77 Where unacceptable behaviour occurs in connection with the use of the licence, that will be regarded as an aggravating feature, and behaviour which is not connected with the use of the licence will not be seen as less serious.

1.78 The overall aim of this policy is to ensure that the Hackney Carriage and private hire trades continue to provide a safe and satisfactory service to the public, and actions or behaviour that affect or reduce those standards will not be tolerated by the Council.

### **Enforcement**

1.79 In any situation where there has been non-compliance with any requirement, or behaviour which fall short of the requirement to remain a safe and suitable person to hold a licence, the council will consider enforcement action. In addition, action will be taken in respect of vehicles that do not comply with either the council's requirements or road traffic laws. Any enforcement action will be guided by the council's enforcement policy, and may result in one or more of the following (this is not an exhaustive list):

- a) Take no action
- b) Issue a warning letter
- c) Issue penalty points
- d) Use statutory notices (suspension of a vehicle licence using section 68 Local Government (Miscellaneous Provisions) Act 1976)
- e) Suspension of a licence
- f) revocation of a licence
- g) issue of a simple caution in respect of criminal offences
- h) Prosecution in respect of criminal offences

1.80 The Council's penalty points scheme, mentioned above, is detailed in section 2.

### **Decision Making**

- 1.81 Decisions on applications and action against licences are made by the Council. Usually that will be a decision made by an officer acting under delegated powers but where an application is outside policy or action needs to be taken in relation to an existing licence the matter may be referred to a subcommittee of the regulatory committee.
- 1.82 There is no difference in the decision-making process between an officer and a committee. In both cases the applicant or licensee will be given an opportunity to make representations to the officer or committee and those will be taken fully into account. Written representations/submissions will be accepted. There may be occasions when a very short timescale will be provided for representations to be made: this is likely to occur where action may need to be taken quickly in relation to a driver's licence. In those circumstances the licensee will be contacted by all practicable means to be informed of the date and time of the decision and given an opportunity to attend. If however the licensee cannot be contacted or does not attend, then the decision will be taken in their absence.
- 1.83 In all cases the matter will be considered entirely on its own merits, in the light of this policy and any guidance issued by the Department for Transport.
- 1.84 Full and detailed reasons for all decisions will be provided to the applicant or licensee, together with details of the rights of appeal.

### **Equality of treatment and discrimination**

- 1.85 The Council will treat all applicants and licensees equally and fairly. There will be no discrimination on any ground and each and every application and subsequent decision will be considered on its merits in the light of the legislation, guidance and this policy.
- 1.86 The Council will not accept or tolerate any discriminatory behaviour on the part of any applicant or licensee. This includes any discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation, but that is not an exhaustive list.
- 1.87 All licensees must at all times treat people courteously, civilly and decently.
- 1.88 Any complaints that are received by the Council that indicate that the licensee has failed to uphold the standards will be investigated thoroughly, and if substantiated will lead to action being taken against that licence.

### **Safeguarding**

- 1.89 The Council is committed to safeguarding and promoting the welfare of children, young people, adults at risk, vulnerable persons and all other members of society. We take

our responsibilities seriously and expect all our licensed drivers, proprietors and operators to share this commitment.

- 1.90 Licensed driver, proprietors and operators must consider the safety, security and welfare of their passengers, customers and the public generally when determining what safeguarding measures they should put in place in relation to their activities as a licensee.
- 1.91 All new applicants for taxi driver licences, private hire operator licences and Hackney Carriage and private hire proprietors (vehicle) licences will be required to attend and successfully pass a safeguarding course and test, as required by the Council, in order to obtain a pass certificate. There is no limit for the number of attempts to complete the test, to be undertaken at the applicant's own expense, however no licence will be issued until the applicant provides a valid certificate showing they have passed the safeguarding course.
- 1.92 All existing licensed drivers, proprietors and operators will be required to attend and successfully pass a safeguarding course and test, as required by the Council, in order to obtain a pass certificate which must be produced within 1 calendar year of adoption of this policy or on renewal whichever is sooner. Failure to do so may result in suspension of the licence until successful completion of the test. **(Training requirements, frequency and implementation to be confirmed)**
- 1.93 As part of the licence renewal application process renewal applicants will be required to submit a current safeguarding certificate, no older than 3 months, issued by a provider approved by the Council. That must be provided:
- Every 3 years for drivers
  - Every 3 years for vehicle proprietors
  - Every 5 years for private hire operators
- 1.94 It is the duty of the applicant to ensure that they have completed the course and passed the test in sufficient time before applying for a renewal licence. There is no limit for the number of attempts to complete the test, to be undertaken at the applicant's own expense, however no licence will be issued until a certificate is produced.

### **Equality Act and Disability Discrimination**

- 1.95 All licensees must ensure that they comply with their statutory duties in relation to disabled people under the Equality Act 2010 as amended which includes not charging disabled people any more for a particular journey than an able-bodied person would be charged.
- 1.96 Drivers of vehicles designated by the Council in the list of wheelchair accessible vehicles must
- a) be able to carry the passenger while in the wheelchair;

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

1.93.1 Mobility assistance is assistance—

- a) to enable the passenger to get into or out of the vehicle;
- b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- c) to load the passenger's luggage into or out of the vehicle;
- d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

1.93.2 This does not apply if the driver has a certificate of exemption, and the specified notice is displayed in the vehicle at the time.

- 1.97 Drivers of all Hackney carriage and private hire vehicles must carry any disabled passenger without any additional charge being made (by the driver in the case of a hackney carriage, or by the operator or driver in the case of a private hire vehicle) and:
- a) if the passenger is in or has with them a wheelchair, to carry the wheelchair;
  - b) if the passenger has with them any mobility aids, to carry the mobility aids (anything apart from a wheelchair the passenger uses to assist their mobility);
  - c) to take such steps as are reasonable to ensure that the passenger is carried in safety and reasonable comfort;
  - d) to give the passenger such mobility assistance as is reasonably required;

1.94.1 Mobility assistance means providing assistance:

- a) to enable the passenger to get into or out of the vehicle;
- b) to load the passenger's luggage, wheelchair or mobility aids into or out of the vehicle.

1.94.2 This does not apply if the driver has a certificate of exemption, and the specified notice is displayed in the vehicle at the time.

- 1.98 Drivers of Hackney Carriages must carry an assistance dog and allow it to remain with their owner unless they have a certificate of exemption issued by the Council. They must not make any additional charge for doing so. When an assistance dog is being carried, the driver must allow it to be carried wherever the owner requires i.e. the driver cannot insist on the dog being separated from the owner or the owner and dog sitting in a particular seat (Section 168 Equality Act 2010). The same requirements apply to drivers of private hire vehicles when the operator has accepted a booking for a passenger with an assistance dog (whether or not the driver is aware of the existence of the dog) unless they have a certificate of exemption issued by the Council. The operator cannot make any additional charge for the carriage of the dog.

## Complaints about licensees

- 1.99 If any person has any complaint about the behaviour or actions of a licensee (taxi driver, private hire operator or vehicle proprietor) they should contact the licensing department at [licensing1@cumberland.gov.uk](mailto:licensing1@cumberland.gov.uk), [licensing2@cumberland.gov.uk](mailto:licensing2@cumberland.gov.uk) or [licensing3@cumberland.gov.uk](mailto:licensing3@cumberland.gov.uk)
- 1.100 To enable a complaint to be investigated that person must provide their name, address and contact details to the Council but these will not necessarily be passed on to the licensee. The licensing officers will consider all complaints. If the complaint is taken forward by the Council there will be full discussion with the complainant and agreement as to whether or not their identity can be revealed to the licensee. Depending on the outcome of the investigation, the council may take appropriate action against the licensee. The Council will keep complainants informed of the progress of the investigation, any subsequent action taken and outcome of any subsequent court proceedings.

## Hackney Carriage and private hire driver licences

- 1.101 The Council issues combined drivers' licences. That means that the licence is issued under both section 46 of the Town Police Clauses Act 1847 to drive a Hackney Carriage, and section 51 of the Local Government (Miscellaneous Provisions) Act 1976 to drive private hire. In both cases the vehicle must be licensed by the Council.
- 1.102 To be licensed as a driver, the following requirements must be met by the applicant. Full details are contained in section 4
- a) must be aged at least 21;
  - b) must have held a full (not provisional) valid driver's licence for at least 1 year. This must be a UK, Northern Ireland, EU or exchangeable licence. In the case of an exchangeable driving licence this can only be used in the UK for a maximum of one year, after which it must be exchanged for a UK licence;
  - c) must have the right to live and work in the UK;
  - d) must be registered for tax with HMRC (in the case of a renewal) or acknowledge that they must register for tax with HMRC (in the case of a new application);
  - e) Must pass the approved driver skills assessment (this applies to all new applicants and all existing drivers who on renewal cannot demonstrate that they have passed any previous test to the same standard);
  - f) provide a medical certificate from their own GP or medical practitioner who have access to all medical records;
  - g) pass the Councils approved English communication skills test;
  - h) attend the Council approved child sexual exploitation and safeguarding training;
- 1.103 The applicant must obtain an enhanced DBS certificate with a check of both the adult and child barred lists at first application or be subscribed to the update service. The

application must be made within one month of the date on the certificate. The certificate must state the position as “taxi driver or private hire driver” and the workforce as “other workforce”.

1.104 As part of that process the Council will check the National Register of Refusals, Revocations and Suspensions (NR3S), if information is revealed, checks will be undertaken with the relevant authority. In addition, information may be shared with other departments of the Council, other local authorities, HMRC, the police and immigration services. As a user of the NR3S, the Council will check the name of every applicant for a drivers licence against the database, and will add the details to the database of any driver whose licence application is refused or licence is suspended or revoked.

1.105 Once a valid application has been made, the test the Council will apply to determine whether an applicant is a safe and suitable person to be granted a drivers’ licence 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?”

1.106 Applicants can complete the application form (together with the fee), satisfy the immigration checks, provide the DBS certificate, and provide the medical certificate without undertaking the driving test or, safeguarding training if they wish. This is referred to as a provisional application and will enable them to be satisfied that the Council will regard them as being a safe and suitable person, subject to the additional requirements. This will save expenditure on the part of the applicant in situations where there is doubt as to whether or not a licence will be granted based upon the information provided.

1.107 Full details of the policy including the application process can be found at section 4.

1.108 This also includes copies of the byelaws and the Code of Conduct.

1.109 The Council does not attach conditions to a taxi driver’s licence. Although the legislation allows conditions to be attached to a private hire driver’s licence, they cannot be attached to a Hackney Carriage driver’s licence. To ensure that the standards of behaviour are the same when drivers are driving either type of vehicle, the Council has decided to adopt a Code of Conduct. These are not conditions attached to the licence: rather this is the standard of behaviour expected from all taxi drivers.

1.110 If there is any non-compliance with this Code of Conduct, or the driver’s behaviour falls short of these requirements, the Council will then consider whether or not that person remains a safe and suitable person to hold a licence. The consequences of not complying with the Code of Conduct include penalty points being awarded; suspension of the licence; revocation of the licence or nonrenewal of the licence.

## **Hackney Carriage vehicle licences**

- 1.111 Once a vehicle has been licensed as a Hackney Carriage, it retains that status all day every day for the duration of that proprietors (vehicle) licence. That means that it can only be driven by a person who holds a Cumberland dual/combined taxi driver's licence entitling them to drive a Hackney Carriage licensed by the Council. The exception to this is when the vehicle is being tested.
- 1.112 Full details of the policy including the application process can be found at section 5.
- 1.113 Applicants for a Hackney Carriage proprietor's licence must provide a basic DBS at the time of first application and the annually. This does not apply if a proprietor is a licensed driver with the Council and already holds a valid enhanced DBS certificate and subscribes to the update service.
- 1.114 Once a valid application has been made, the test the Council will apply to determine whether an applicant is a safe and suitable person to be granted a Hackney carriage vehicle licence is:
- “Without any prejudice, and based on the information before you, would you be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?”
- 1.115 The council sets fares for Hackney carriages. The mechanism for doing so is contained in section 65 Local Government (Miscellaneous Provisions) Act 1976. A fare review/increase can be initiated by the council or by the Hackney carriage trade. It will not be an automatic process and there must be a substantial number of requests made. The minimum timescale between reviews will be 12 months. The request, including full reasoning, must be made in writing.

## **Private Hire Vehicle licences**

- 1.116 Once a vehicle has been licensed as a private hire vehicle, it retains that status all day every day for the duration of that vehicle licence. That means that it can only be driven by a person who holds a Cumberland dual/combined taxi driver's licence entitling them to drive a private hire vehicle licensed by the Council. There is no exception to this, even when the vehicle is being tested.
- 1.117 Full details of the policy including the application process can be found at section 6.
- 1.118 Applicants for a private hire proprietor's licence must provide a basic DBS at the time of first application and then annually. This does not apply if a proprietor is a licensed



driver with the Council and already holds a valid enhanced DBS certificate and subscribes to the update service.

- 1.119 Once a valid application has been made, the test the Council will apply to determine whether an applicant is a safe and suitable person to be granted a private hire vehicle licence is:

“Without any prejudice, and based on the information before you, would you be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?”

### **Private Hire Operator Licences**

- 1.120 A private hire vehicle must be booked via a private hire operator before the journey carrying passengers (the hiring) commences. A Cumberland private hire operator can only operate (i.e. dispatch) a private hire vehicle driven by a private hire driver, both licensed by the Council.

- 1.121 A Cumberland operator can subcontract to another operator licensed anywhere in England (including Greater London but excluding Plymouth), Wales or Scotland, and can also accept a subcontract from any other operator. When discharging a subcontract, the vehicle and driver used must be licensed by the Council.

- 1.122 A Cumberland licensed operator can advertise their services anywhere, not only within the area of the Council.

- 1.123 Full details of the policy including the application process can be found at section 7.

- 1.124 Applicants for a private hire operator’s licence must provide a basic DBS at the time of first application annually thereafter. This does not apply if a proprietor is a licensed driver with the Council and already holds a valid enhanced DBS certificate and subscribes to the update service.

- 1.125 Once a valid application has been made, the test the Council will apply to determine whether an applicant is a safe and suitable person to be granted a private hire operators licence is:

“Without any prejudice, and based on the information before you, would you be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information would not be used or passed on for criminal or unacceptable purposes?”

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# *Section 2*

# *PENALTY*

# *POINTS SCHEME*

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1. Penalty Points Scheme
2. List of Offences/Breach of Vehicle Licence Conditions
3. List of Offences/Breach of Driver Code of Conduct
4. List of Offences/Breach of Operator Licence Conditions
5. Cumberland Council Byelaws relating to Hackney Carriages

## **Penalty Points Scheme**

- 2.1 Hackney carriage proprietors, private hire operators, drivers and vehicles are principally governed by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, Council Byelaws (in respect of hackney carriages) and the policy and conditions set by the Council.
- 2.2 The primary objective of the penalty points scheme is to improve the levels of compliance and to help improve the standards, safety and protection of the travelling public.
- 2.3 The penalty points scheme works 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 licensees' behaviour and conduct so as to ascertain whether they remain a safe and suitable person to be a vehicle driver or operator and/or suitable to hold a vehicle licence. It does not prejudice the Council's ability to take other action.

- 2.4 The scheme will be used where operators, drivers or proprietors of vehicles fail to comply with any legislative requirement, commit a criminal offence (under legislation or byelaws) or breach conditions of licence, and following complaints from the public.
- 2.5 Licensees involved will be given the opportunity to respond to the proposed imposition of penalty points with a letter detailing the circumstances that led to the points being considered. The outcome of any investigation may result in officers determining that: no further action be taken; penalty points be imposed; a formal warning be issued, and/or prosecution. This decision will be made in consultation with a senior officer before being issued.
- 2.6 If a licensee wishes to challenge the imposition of penalty points then this decision will be referred to a Regulatory Sub Committee.
- 2.7 At that hearing the Sub-Committee can remove the penalty points, uphold the penalty points, increase the penalty points (and this includes imposing more points than displayed on the tariff), suspend or revoke the licence, or recommend prosecution. Drivers must appeal any points issued by Officers to the Regulatory Sub-Committee within 21 days. Details of the appeal mechanism will be contained in the letter confirming the imposition of points.
- 2.8 Penalty points remain live or current for 3 years for drivers and proprietors and 5 years for operators from the date the penalty points were imposed. If the decision was appealed to the Regulatory Sub-Committee, and the Sub-Committee uphold an imposition of points, those points will remain live for 3 years for drivers and proprietors and 5 years for operators from the date of the Sub-Committee's decision. The 3 and 5 year 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.
- 2.9 Where a licensee accumulates more than 12 penalty points in any 12 month period, the matter will be referred to the Regulatory Sub-Committee for the Sub-Committee to decide whether the driver remains a safe and suitable person. The Regulatory Sub-Committee may then suspend or revoke a licence, or issue a warning to the Licensee, depending upon the circumstances. Periods of suspension of a licence by a Sub-Committee will be dependent on the nature of the breaches of the legislation, conditions, behaviour and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days.
- 2.10 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 conditions.
- 2.11 If points are issued to a proprietor or driver for a matter which is also a criminal offence which the council could prosecute for e.g. not wearing a driver's badge, failure to maintain operator records, those person(s) will not then be the subject of a prosecution by the Council.

## **List of Offences / Breach of Vehicle Licence Conditions**

<b><u>Offence / Breach</u></b>	<b>Code</b>	<b>Points</b>
Failure to have an MOT test when vehicle is over 1 year of age for hackney carriage and 3 years of age for private hire	<b>V1</b>	<b>4</b>
Failure to have a means of loading wheelchairs into the vehicle available at all times.	<b>V2</b>	<b>2</b>
Failure to maintain seat belts in a safe condition	<b>V3</b>	<b>4</b>
Undertaking alterations to equipment, dimensions or other specification to a licensed vehicle without consent	<b>V4</b>	<b>4</b>
Failure to display approved roof sign	<b>V5</b>	<b>2</b>
Failure to display roof sign on the front part of the roof, unless the vehicle type does not facilitate this, in which case it must be as near to the front as possible.	<b>V6</b>	<b>2</b>
Failure to display correct livery (door signs).	<b>V7</b>	<b>4</b>
Failure to comply with advertising consent	<b>V8</b>	<b>4</b>
Private hire vehicles advertising incorrectly	<b>V9</b>	<b>4</b>
Failure to display a “no smoking/no vaping” sign(s) in the vehicle	<b>V10</b>	<b>4</b>
Private hire displaying the word “taxi”	<b>V11</b>	<b>4</b>
Incorrectly displaying licence plates	<b>V12</b>	<b>4</b>
Failure to report loss or damage of a vehicle plate, following discovery of loss or damage.	<b>V13</b>	<b>2</b>
Advertising on vehicle without written authorisation from the Licensing Authority	<b>V14</b>	<b>4</b>
Failure to submit taximeter for testing when requested to do so by Licensing Authority	<b>V15</b>	<b>2</b>
Tampering or allowing an unauthorised person to tamper with taximeter	<b>V16</b>	<b>4</b>
Failure to display a table of fares inside the HCV	<b>V17</b>	<b>2</b>
Wilfully or neglectfully causing letters or figures in the table of fares to be obscured	<b>V18</b>	<b>2</b>
Failure to notify Licensing of accidents or damage affecting the safety, performance or appearance of the vehicle	<b>V19</b>	<b>2</b>
Failure to have insurance for the licensed vehicle	<b>V20</b>	<b>12</b>

<b><u>Offence / Breach</u></b>	<b><u>Code</u></b>	<b><u>Points</u></b>
Failure to provide evidence of insurance prior to expiry on request by the Licensing Authority	<b>V21</b>	<b>6</b>
Failure to produce details to the Licensing Authority of drivers permitted to drive	<b>V22</b>	<b>2</b>
Failure to notify change of drivers	<b>V23</b>	<b>2</b>
Failure to notify Licensing Authority of change of address or other contact details	<b>V24</b>	<b>2</b>
Failure to obtain written permission to use trailers on Licensed vehicles	<b>V25</b>	<b>12</b>
Using a driver without the appropriate DVLA category code to tow a trailer	<b>V26</b>	<b>6</b>
Failure to provide information requested by an authorised officer	<b>V27</b>	<b>4</b>
Failure to provide assistance to an authorised officer	<b>V28</b>	<b>4</b>
Failure to provide evidence of insurance prior to expiry (1 <sup>st</sup> instance)	<b>V29</b>	<b>6</b>
Failure to provide evidence of insurance prior to expiry (2 <sup>nd</sup> instance)	<b>V30</b>	<b>12</b>
Failure to have continuous insurance.	<b>V31</b>	<b>12</b>
Providing alcoholic drinks not in accordance with the sale or supply of alcohol legislation	<b>V32</b>	<b>12</b>

### **List of Offences/Breaches of Driver Code of Conduct**

<b><u>Offence / Breach</u></b>	<b><u>Code</u></b>	<b><u>Points</u></b>
Driver not clean and respectable in their dress	<b>D1</b>	<b>2</b>
Driver not behaving in a civil and orderly manner	<b>D2</b>	<b>3</b>
Driver allowing noise from radio or other similar equipment to be a source of nuisance or annoyance to any person inside or outside the vehicle	<b>D3</b>	<b>2</b>
Driver smoking/vaping/similar whilst in the vehicle	<b>D4</b>	<b>6</b>
PH drivers parking in a position or location which gives the appearance of being for hire, whilst not on a pre booking	<b>D5</b>	<b>3</b>
Driver of PH vehicle plying for hire	<b>D6</b>	<b>4</b>

<b><u>Offence / Breach</u></b>	<b><u>Code</u></b>	<b><u>Points</u></b>
Driver calling out or influencing person to travel in the vehicle for gain without a prior appointment	<b>D7</b>	<b>3</b>
Fail to have in possession driver badge whilst driving a licensed vehicle	<b>D8</b>	<b>2</b>
Not wearing driver badge in the vehicle which is visible to passengers being conveyed in the vehicle	<b>D9</b>	<b>2</b>
Driver carrying greater number of persons than the number specified on the licence	<b>D10</b>	<b>12</b>
Carrying other persons in the vehicle without the consent of the hirer	<b>D11</b>	<b>2</b>
Failing to carry passenger luggage	<b>D12</b>	<b>4</b>
Failing to ensure the safety of passenger luggage	<b>D13</b>	<b>4</b>
Failing to offer reasonable assistance with luggage	<b>D14</b>	<b>2</b>
Failing to take steps to ensure passenger safety	<b>D15</b>	<b>6</b>
Failing to ensure passengers are dropped off safely, at the correct destination	<b>D16</b>	<b>2</b>
Fail to operate taxi meter correctly (HC)	<b>D17</b>	<b>4</b>
Fail to use taximeter on pre booked journey or fail to charge fee less than meter fee	<b>D18</b>	<b>2</b>
Tampering or allowing tampering of a taximeter	<b>D19</b>	<b>4</b>

Demanding more than the previously agreed fare	<b>D20</b>	<b>4</b>
Demanding more than the fare shown on the taxi meter or scale of charges on the table of fares	<b>D21</b>	<b>4</b>
Starting the fare before the hirer enters the vehicle unless specified in the tariff sheet	<b>D22</b>	<b>4</b>
Failure to attend at appointed time or place without sufficient cause	<b>D23</b>	<b>2</b>
Unnecessarily prolonging journey in distance or time	<b>D24</b>	<b>4</b>
Failure to ensure insurance cover for licensed drivers to drive vehicle	<b>D25</b>	<b>6</b>
Failure to ensure vehicle is licensed by Licensing Authority for the purpose used	<b>D26</b>	<b>13</b>

Failure to notify Licensing Authority of change of address/telephone number within 7 days	<b>D27</b>	<b>4</b>
Failure to notify Licensing Authority of motoring offences and/or penalty points, criminal convictions or any other penalty as defined by policy during the period of licence	<b>D28</b>	<b>12</b>
Failure to notify Licensing Authority of involvement in incidents which the Police are involved and may lead to a caution/conviction	<b>D29</b>	<b>12</b>
Failure to notify Licensing Authority in writing within 7 days of serious injury or illness	<b>D30</b>	<b>12</b>
Failure to notify the Licensing Authority of a DVLA notifiable condition	<b>D31</b>	<b>12</b>
Failure to carry assistance dog without exemption	<b>D32</b>	<b>4</b>
Making additional charge for carrying assistance dog	<b>D33</b>	<b>4</b>
Not using mobile phone in accordance with The Road Vehicle (construction and use) (Amendment) (No.4) Regulation 2003	<b>D34</b>	<b>6</b>
Failure to keep vehicle reasonably clean	<b>D35</b>	<b>4</b>
Failure to notify Licensing Authority of vehicle damage within 72 hours or present vehicle if requested to do so	<b>D36</b>	<b>4</b>
Failure to provide a written receipt for the fare paid if requested to do so by the passenger	<b>D37</b>	<b>2</b>
Failure to co-operate with any authorised officer of the Licensing Authority, Constable or any other clearly identifiable person nominated by the Licensing Authority	<b>D38</b>	<b>4</b>
Failure to keep a record of bookings in the Private Hire Vehicle. This can be computerised/electronic or written	<b>D39</b>	<b>2</b>
Failure to comply the regulations governing the wearing of seat belts	<b>D40</b>	<b>4</b>

### **Offences / Breaches of Operator Licence Conditions - Private Hire**

<b><u>Offence</u></b>	<b><u>Code</u></b>	<b><u>Points</u></b>
Operating more vehicles than stated on licence	<b>O1</b>	<b>2</b>
Failure to obtain and maintain insurance on vehicle	<b>O2</b>	<b>12</b>
Failure to produce evidence of insurance cover to the Licensing Authority	<b>O3</b>	<b>6</b>

<b><u>Offence</u></b>	<b><u>Code</u></b>	<b><u>Points</u></b>
Failure to notify the Licensing Authority of change of insurer within 2 days	<b>O4</b>	<b>2</b>
Failure to provide a prompt, efficient or reliable service	<b>O5</b>	<b>2</b>
Failure to attend a booking at appointed time or place without sufficient cause	<b>O6</b>	<b>2</b>
Fail to have necessary documents and equipment	<b>O7</b>	<b>2</b>
Failure to supply written confirmation within seven days of changes to the particulars shown on the application form relating to the licence	<b>O8</b>	<b>4</b>
Fail to notify Licensing Authority of change of address	<b>O9</b>	<b>2</b>
Failure to notify the Licensing Authority within seven days of any arrest or convictions imposed on them, during the period of the licence	<b>O10</b>	<b>6</b>
Failure to keep proper records for a period of not less than six months	<b>O11</b>	<b>3</b>
Fail to keep records correctly	<b>O12</b>	<b>2</b>
Fail to keep records of private hire vehicles operated	<b>O13</b>	<b>2</b>
Displaying the word Taxi or Cab on a private hire vehicle	<b>O14</b>	<b>2</b>
Failure to keep records of all drivers employed or failure to produce details of the drivers	<b>O15</b>	<b>2</b>
Failure to notify Licensing Authority within seven days of the particulars of any driver who is no longer employed by the operator	<b>O16</b>	<b>2</b>
Failure to maintain telephone or radio equipment in sound condition or failure to repair defects promptly	<b>O17</b>	<b>2</b>
Using unlicensed drivers to drive a Cumberland Council Licensing Authority licensed vehicle	<b>O18</b>	<b>12</b>
Failure to keep a written record of all complaints or failure to make available to the Licensing Authority	<b>O19</b>	<b>2</b>
Failure to carry out or provide the required DBS checks on dispatch staff	<b>O20</b>	<b>12</b>
Failure to record, maintain or provide details of checks on dispatch staff in a register	<b>O21</b>	<b>12</b>



<u>Offence</u>	<u>Code</u>	<u>Points</u>
Failure to make appropriate checks of any operator for which work is outsourced	<b>O22</b>	<b>12</b>
Failure to establish, maintain or provide a policy on employing ex-offenders to the licensing authority	<b>O23</b>	<b>12</b>
Failure to require notification of convictions as part of the contract of employment	<b>O24</b>	<b>12</b>
Failure to notify licensing authority of any conviction information relating to booking and dispatch staff in accordance with condition	<b>O25</b>	<b>12</b>

**Breaches of . . . District/Borough Council Byelaws Relating To Hackney Carriages to be confirmed when byelaws are implemented**

<u>Byelaw number</u>	<u>Offence</u>	<u>Code</u>	<u>Points</u>
2 (b) (i)	Wilfully or negligently causing licence number to be concealed from public view while the carriage is standing or plying for hire	<b>B1</b>	<b>2</b>
2 (b) (ii)	Causing or permitting the carriage to stand or ply for hire with an illegible plate	<b>B2</b>	<b>2</b>
3	Failure to furnish the hackney carriage in accordance with requirements of the Byelaw	<b>B3</b>	<b>2</b>
4.	Failure to provide a taximeter in accordance with the requirements of the Byelaw	<b>B4</b>	<b>2</b>
5.	Failure to operate taximeter in accordance with requirements of the Byelaw.	<b>B5</b>	<b>2</b>
6.	Driver or proprietor tampering with meter or permitting any unauthorised person to tamper with meter	<b>B6</b>	<b>4</b>
7. (b)	Failure to proceed to another rank when at the time of arrival rank is full	<b>B7</b>	<b>2</b>
7. (c) (d)	Failure to station or move the carriage immediately behind the carriage or carriages in front on the rank	<b>B8</b>	<b>2</b>
8.	A proprietor or driver using the services of a person to importune a person to hire the vehicle	<b>B9</b>	<b>2</b>
10.	Failure by driver to take reasonable precautions to ensure the safety of passengers	<b>B10</b>	<b>4</b>

<b><u>Byelaw number</u></b>	<b><u>Offence</u></b>	<b><u>Code</u></b>	<b><u>Points</u></b>
11.	Driver or proprietor allowing more persons to be conveyed than the licence allows	<b>B11</b>	<b>12</b>
12.	Failure by driver to carry the badge provided by the Licensing Authority when plying for hire	<b>B12</b>	<b>2</b>
13.	Failure to provide when requested reasonable assistance with luggage	<b>B13</b>	<b>2</b>
15.	Failure to display statement of fares inside the carriage in a legible state	<b>B14</b>	<b>2</b>

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# *Section 3*

# *Suitability*

# *Guidance*

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# Suitability Guidance

Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire industry.

2024



Produced by the Institute of Licensing in partnership with:



Taxi licensing began in 1635, when King Charles I limited the numbers of hired coaches in London. Charles II seemed disinclined to abandon regulation. He issued more licences, set fees and standards.

The present licensing system has its roots in the Town Police Clauses Act 1847 which declared “Hackney carriages to be licensed”. Although the requirement for licensing was national, standards and enforcement were local, through Commissioners, and taxi licensing has been determinedly local ever since.

The first – and most recent - edition of this Guidance was published in April 2018. It noted that there had been “no recent Statutory or Ministerial Guidance as to how decisions should be approached or what matters are relevant or material to such a decision”.

In my work as Chair of the Independent Inquiry into Telford Child Sexual Exploitation, I heard lacerating accounts from children sexually exploited by taxi drivers. I further heard that it was essentially impossible for the Borough to enforce local standards as over the years different – even neighbouring - authorities had maintained different approaches to drivers’ characters and behaviours, as to required driver training and even as to vehicle condition.

The first edition of this Guidance contained advice as to each of those elements, and detailed consideration of the effect of particular types of offending on suitability, all of which plainly **influenced the Department for Transport’s subsequent Statutory Guidance. Since then, the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022** has mandated the use of the NR3S database by English local authorities.

The progress is plainly welcome, and this thoughtful and comprehensive second edition of the Guidance will no doubt influence the debate as its predecessor did. But while this Guidance sets a goal of consistency, as long as the system allows drivers to choose their licensing authority by price, rather than by the area in which they operate, it is the low-cost, lighter touch regulators that will thrive and those (like Telford) who have put in place thoughtful suitability criteria, including high quality training, that will struggle for custom. It seems to me that is not only an odd result of something deemed “localism”, but also one profoundly not in the public interest.

In 2018 a government report<sup>4</sup> recommended legislation for national minimum standards for taxi and PHV licensing; the Government agreed<sup>5</sup>, and said that it would take forward legislation “when time allows”. Perhaps, after almost 400 years, an Act in the reign of Charles III might finish the job his predecessors began.

TOM CROWTHER KC  
23ES CHAMBERS

## **Acknowledgements**

The IoL originally published its *Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades* in April 2018. The original Guidance was

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<sup>4</sup> <https://assets.publishing.service.gov.uk/media/60085e35e90e073ecce20064/taxi-and-phv-working-group-report-document.pdf>

<sup>5</sup> <https://assets.publishing.service.gov.uk/media/5f76f9308fa8f55e36671b26/taxi-task-and-finish-gov-response.pdf>

the result of many months of work by a dedicated group of individuals who formed the Suitability Working Group.

The April 2018 publication was formally endorsed by the Local Government Association, Lawyers in Local Government, and the National Association of Licensing and Enforcement Officers. It was gratifying when Chapter 4 of the original guidance was closely mirrored in the annex at s 10 of the Department of Transport's Statutory taxi and private hire vehicle standards, published in 2020.

The Guidance was and is intended to assist local licensing authorities in considering their own local licensing policies on determining the suitability of applicants and licence holders for taxi and private hire licensing. It was well received among such authorities generally, with many updating or reviewing their policies by incorporating the guidance in part or in whole, ahead of or subsequent to the publication of the DfT standards. The Guidance has been successfully cited in courts where it has been so incorporated by authorities and as a stand-alone reference.

The Suitability Working Group had an informal review planned for 2021. Work started in 2022 (delayed from 2021 due to the pandemic), with an initial consultation (round 1) in 2022 on the effectiveness and level of adoption of the guidance. The Working Group assessed the round 1 consultation responses but opted to pause the work pending the then anticipated imminent publication of the DfT's *Best Practice Guidance* which eventually followed in November 2023.

The draft revised Guidance was subject to a further consultation (round 2), which closed on 30 September 2024, following which all the consultation responses were carefully reviewed in producing this revised Guidance.

With sincere thanks to the Suitability Working Group:

- Stephen Turner, Solicitor at Hull City Council (Working Group Chair)
- Phil Bates, Licensing Manager, Southampton City Council
- Ellie Birch, IoL Executive Assistant
- James Button, James Button & Co Solicitors
- Linda Cannon, former Licensing Manager, Basingstoke Council
- Yvonne Lewis, Licensing Manager, City & County of Swansea
- John Miley, former Licensing Manager (Broxtowe Council) and National Chair for NALEO
- Sue Nelson, IoL Executive Officer
- Professor James Treadwell, Professor of Criminology, Staffordshire University

## Suitability Guidance Preface

**Chapter 1: Introduction** is an introduction to the Suitability Guidance. It refers to the importance of the licensing regime in protecting public safety and sets out the legislative position that a licensing authority must be satisfied has been met by an applicant before deciding if they are a fit and proper person to hold a licence.

Chapter 1 refers to policies having a “bright line approach” and explains the position in this regard. Finally, Chapter 1 sets out some of the approaches taken in later chapters of the Suitability Guidance, which will be looked at in turn.

**Chapter 2: Offenders, Offending, Re-offending and Risk of Harm - An Overview**, has been extensively reviewed. It looks at patterns of behaviour for offenders, and aims to assist licensing authorities in considering previous convictions and non-conviction information (complaints etc) alongside time factors (time elapsed), trends and the nature of behaviours in order to make a reasoned judgement of suitability when there are matters of concern.

While considering all criminal behaviour, this chapter looks in detail at sexual offences, which are naturally of key concern when considering an individual's suitability to hold a licence. It underlines the role of licensing as a form of safeguarding and risk management of activities, recognising that licensees are in positions of trust, and have the opportunity to take advantage of potentially vulnerable passengers on a daily basis.

**Chapter 3: Taxi and Private Hire Licensing Overview** provides an overview of taxi and private hire licensing law, including the legislative framework, and the principal objective of the licensing regime (to protect the public).

The chapter looks at the licence types under the regime, and considers the application and decision-making processes and key considerations in each case, including the legal thresholds which apply (for example the need for the local authority to be satisfied that an individual is a fit and proper person before granting a licence). It emphasises the need for reasoned decisions and clear records of decisions to be maintained. There are references to relevant parts of the DfT's Statutory taxi and private hire standards and the system of recording refusals, suspensions and revocations on the NR3S database (mandated in England and wholly adopted in Wales).

Chapter 3 acknowledges that the vast majority of applicants and licence holders are decent, law-abiding people who work hard to provide a good service to their customers and the local community. They are an essential part of our communities, and many local residents rely heavily on them. The licensing regime, when working correctly, should exclude those who are not safe and suitable from the profession, protect licensees as a whole by increasing public confidence, and uphold the professionalism of the industry.

**Chapter 4: Guidance on Determination** has been subject to much discussion and review. The overriding principle of listing categories of offending rather than listing specific offences has been maintained. This is essential as consideration is not confined to conviction information - non-conviction information is relevant and must be considered alongside convictions. In addition, a list of specific offences would be too narrow, and become superseded by new offences, or arguments that a particular offence was “different” from a listed one.

Some categories have been expanded. For example, “exploitation” now includes “criminal harassment”; “offences involving violence” includes fear of violence and violence against property, animals and the State; and “sex and indecency offences” includes a reference to the “Sex Offenders’ Register” and “barred” lists.

Additional categories have been included: “alcohol misuse or dependency”, in addition to “drugs misuse” (which now includes “dependency”), and a further category of “discrimination”. There is also a section on behaviours which looks at non-criminal behaviours which would be a potential cause for concern.

Motoring offences have been an area which has been subject to intense discussion. This was the main area of feedback on the original Guidance, in particular the reference to minor traffic or vehicle related offences. The “motoring offences” section sets out the guidelines in relation to motoring offences and the reasoning behind them.

Chapter 4 maintains the view set out in the original guidance, that the considerations under each category should be applied when considering applicants and licensees for driver, operator and vehicle proprietor licences.

#### **Version history**

- 28<sup>th</sup> October 2024 – Formally approved
- 13<sup>th</sup> November 2024 – First published
- 20<sup>th</sup> November 2024 – [WLGA endorsement added](#) (Chapter 1, para 1.1)



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This Guidance follows the approach to terminology used by the Department for Transport (DfT) in its Best Practice Guidance:

Vehicles licensed under section 37 of the Town Polices Clauses Act 1847 and section 6 of the Metropolitan Carriage Act 1869 are referred to in that legislation as 'hackney carriages'. This term is also used in older regulations. In more recent legislation the term 'taxi' is used.

In this document ‘taxi’ means a hackney carriage. It does not include private hire vehicles (PHVs).

When referring to both types, the term “taxi and private hire” is used.

## Chapter 1: Introduction

- 1.1 This document was originally published by the Institute of Licensing in April 2018 and this revised edition follows extensive consultation and review. As previously, it has been produced by the Institute working in partnership with the Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO). We are grateful to all those organisations for their contributions and endorsement. The Guidance has also been endorsed by the National Anti-Fraud Network (NAFN) and the Welsh Local Government Association (WLGGA).
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Taxi or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Taxi and Private Hire services. It is a regulated activity, and the purpose of regulation is to ensure, so far as possible, that those engaging in this activity are suitable persons to do so. Entry requirements are necessarily high to ensure the safety of the public, and the reputation of those who are themselves licensed.<sup>6</sup>
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications.<sup>7</sup> The onus lies with the applicant or licensee to satisfy the licensing authority that they are or remain a fit and proper person.<sup>8</sup> It is a key part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgement as to their fitness and propriety.
- 1.4 If a licensee falls short of the fit and proper standard at any time after grant, the licence should be revoked or not renewed on application to do so.
- 1.5 There is some Statutory and non-statutory guidance as to how such decisions should be approached or what matters are relevant or material to a decision contained in the DfT “*Statutory Taxi and Private Hire Vehicle Standards*”, “*Taxi and Private Hire Vehicle Licensing best practice guidance for licensing authorities in England*” and the Welsh Government’s “*Taxi and private hire vehicles: licensing guidance*”, but it is not

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<sup>6</sup> See paras 3.2 of “*Statutory Taxi and Private Hire Vehicle Standards*” Department for Transport 2020 (available at <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards> and 3 of “*Taxi and Private Hire Vehicle Licensing best practice guidance for licensing authorities in England*” Department for Transport revised in 2023 (available at <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>) and the Welsh Government Guidance Document “*Taxi and Private Hire Vehicles: licensing guidance*” revised in September 2024’ (available at <https://www.gov.wales/taxi-and-private-hire-vehicles-licensing-guidance-html>)

<sup>7</sup> Except vehicle proprietors. In those cases, there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence.

<sup>8</sup> This was confirmed by the High Court in *R v Maidstone Crown Court, ex p Olson* [1992] COD 496 QBD

comprehensive. This document complements that guidance as does the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any further Government guidance. It is gratifying and seen as an endorsement of the previous edition of this document that the DfT accepted the suggested convictions guidance in Chapter 4, almost in its entirety.

- 1.6 Local authorities in England should be complying with the requirements of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 which requires use of the NR3S database hosted by the National Anti-Fraud Network. Such use is currently advisory in Wales.
- 1.7 Chapter 4 of this document provides licensing authorities and their decision makers with guidance on determining suitability, taking into account the character of the applicant or licensee. Licensing authorities are encouraged to adopt this guidance within their own Taxi and Private Hire policies. In particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it should not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case. Any departure from the adopted policy should be the exception, rather than the rule.
- 1.8 A licensing authority can say "never" in a policy, known as taking a 'bright line approach', but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. This approach was endorsed by the High Court in *R (on the application of Nicholds)*.<sup>9</sup> Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will only happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. Full and detailed reasons must be provided to the applicant or licensee for every decision, including the reasons for any departure from the Council's policy.
- 1.9 In Chapter 2 this document explores the current academic thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraphs 1.7 and 1.8 and Chapters 3 and 4.
- 1.10 Chapter 3 of this document sets out in overview form the Institute's view of the current law, practice and procedure relating to Taxi and Private Hire licensing. Neither Chapter 3 nor any other part of this document constitutes formal legal advice which licensing authorities should obtain for themselves where required.
- 1.11 The guidance in Chapter 4 contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by a licensing authority's policy or guidance as it 'is not on the list' and also prevents arguments that a firearm is more serious than

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<sup>9</sup> [2006] WHC (Admin), [2007] 1 WLR Admin Crt

a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

- 1.12 The guidance in Chapter 4 cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national standards.
- 1.13 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Taxi and Private Hire Trades, Academics, the Probation Service, NAFN, National and Local Governments, interested Charities and the Police.

## **Chapter 2: Offenders, Offending, Re-offending and Risk of Harm - An Overview**

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public.<sup>10</sup> With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour. While all offending behaviour can be considered when it comes to fitness and propriety, the unique position that licensed taxi and private hire drivers occupy in terms of their occupation and the opportunities and risks that come with such employment mean that some focus and understanding of the nature and character of violent and sexual offences is valuable. Such offences are often important as indicators that an individual might present a risk of serious harm to other people.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining potential future behaviour as well as culpability, it is essential that the decision maker(s) considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed. The wider and broader the evidence base that can be considered, the better the judgement is likely to be.
- 2.4 Crime tends to emerge in teen years, and many people commit offences but do not find themselves persistently involved in crime and criminality. Those who do become more frequent offenders tend to share several risk factors: associations with delinquent peers; school/employment problems; family problems; certain types of mental health problems; and alcohol/substance abuse are the most important predictors of persistence in crime. The predictors of persistence in crime highlight the multiple causes of persistent antisocial behaviour, and how antisocial behaviour and attitudes can be quite deep

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<sup>10</sup> DfT 'Taxi and Private Hire Licensing – Best Practice Guidance, Section 3

rooted. While people who commit crime can and do change and reform, there is also useful predictive value in previous conduct, as past behaviour is often a good indicator of underlying attitudes and potential future conduct.

- 2.5 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years, offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. While this is true, such points should not be used to downplay the vital role that disbarring people of bad character from roles and occupations which provide heightened opportunity for them to harm plays. What can be done, is to examine each case on its individual merits, and look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.6 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is public protection. This includes assessing the risk of re-offending and the risk and scale of harm.<sup>11</sup> Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences in the criminal justice system. Local Authorities are not always privy to this information, so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.
- 2.7 Flaud<sup>12</sup> noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place.<sup>13</sup>
- 2.8 In the Criminal Justice system, His Majesty's Prison and Probation Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards both static and dynamic factors. While no risk assessment can be infallible, there has been a growing recognition for the need to make justifiable and defensible decisions based on public protection.
- 2.9 Understanding the person, their history (including any offending) and their patterns of behaviour and establishing both risk factors related to future offending and protective factors which reduce the risk of future offending is at the centre of managing risk. Risk Factors are aspects of an individual offender's life that have inclined them towards harmful behaviour. Protective factors are the features of an individual's life that may incline them away from harmful behaviour.

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<sup>11</sup> Kemshall, H. (2008). *Understanding the Management of High Risk Offenders* (Crime and Justice). Open University Press

<sup>12</sup> Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>13</sup> Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

- 2.10 Static factors are historical and do not change such as age, and previous convictions. These can be used as a basis for actuarial assessments and are core in considering an individual's potential to reoffend in future.<sup>14</sup> For example, about half imprisoned adults are reconvicted within two years of release from custody. It is also widely accepted that persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous convictions.<sup>15</sup> In 2022 adults released from custody or starting a court order had a proven reoffending rate of 33.4% within a year of their conviction in court or release from prison.<sup>16</sup>
- 2.11 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity.<sup>17</sup> Behaviour can also be a factor in assessing risk, and behavioural changes can be used in making risk assessments. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated or is a risk, it is important to have regard towards the motivation behind their offending, and the dynamic risk factors present at the time of offences against the steps taken to address such factors, thus reducing the risk of re-offending.
- 2.12 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population.<sup>18</sup> Many of these factors are interlinked and embedded in an individual's past experiences. These factors can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed. However, we also ought to recognise that, and at core, known previous behaviour is the best predictor of future behaviour bar none. Good risk assessment is evidence based and uses statistical evidence, understands offence type and risk factors, but also is individualised and takes account of factors that can reduce or increase an individual's risk. It is also holistic and takes account of behaviour in a range of contexts and a good understanding of the whole person at the centre of the assessment. It also requires a somewhat critical and sceptical attitude and doubt towards emotional claims and assertions of change. Often persistent offenders will claim that they have stopped offending only to be reconvicted. These are assertions from the subject that are challenged by contradictory behaviours.
- 2.13 Whether a person who has offended is a risk in the future is a complex debate and has given rise to extensive publications, theories and changes in legislation, with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described in criminal justice as "any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in

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<sup>14</sup> Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

<sup>15</sup> Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

<sup>16</sup> [Proven reoffending statistics: April to June 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/proven-reoffending-statistics-april-to-june-2022)

<sup>17</sup> McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

<sup>18</sup> Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

the risk of re-conviction. An individual's ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time".<sup>19</sup>

- 2.14 Kurlychek, in her study noted that "a person who has offended in the past has been found to have a high probability of reoffending, but this risk is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age".<sup>20</sup> In contrast though, one of the few long-term studies (The Sheffield Desistance Study)<sup>21</sup> which examined the lives of 113 men aged 19–22 years over four years. Their subsequent convictions over the next ten years generally demonstrate a pattern of continuing convictions, but with major crime-free gaps suggesting with some very persistent offenders, desistance, if seen as continuing cessation from crime, may not be fulfilled.
- 2.15 A consistent finding in criminological literature is that many male offenders tend to desist from crime over time, and risk of offending even for those previously convicted reduces once individuals reach the aged 30 years and over.<sup>22</sup> It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationship.<sup>23</sup> Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females is 14 compared to 19 for males.<sup>24</sup> It is true that generally many people do age out of crime, but we should be careful not to count all crime as the same. Serious sexual and violent offences may not be the same as acquisitive offences.
- 2.16 Some people are convicted of crime and will not be further convicted. The Rehabilitation of Offenders Act 1974 aims to help some offenders re-enter the workforce and makes some convictions spent after a determined period. For people who have been involved in persistent and more serious offending, it is a difficult and complex process, likely to involve lapses and relapses. Some criminal convictions, especially those attracting lengthy prison sentences are not considered spent. Some individuals may never desist from crime.<sup>25</sup> As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low risk of re-offending. Often the only way of achieving this is through lapse of significant time.
- 2.17 Typically, the longer the time elapsed since an offence has been committed, the more likely the individual has desisted from crime. It is noted that the more a life is lived crime-

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<sup>19</sup> National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

<sup>20</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

<sup>21</sup> Bottoms, A.E. & Shapland, J. (2016) Learning to desist in early adulthood: the Sheffield Desistance Study. In: J. Shapland, S. Farrall & A.E. Bottoms (Eds.) Global perspectives on desistance: reviewing what we know, looking to the future. Abingdon: Routledge or Shapland, J. (2022) Once convicted? The long-term pathways to desistance. *The Howard Journal of Crime and Justice*, 61, 271–288. <https://doi.org/10.1111/hojo.12473>

<sup>22</sup> Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

<sup>23</sup> Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

<sup>24</sup> Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

<sup>25</sup> Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

free, the more one comes to see the benefits of desistance.<sup>26</sup> Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to re-offend or offend again than individuals who have offended in the recent past”.<sup>27</sup> This is likely substantively true, and yet there are some categories of crime, and some crime types, perhaps particularly sexual offences, where caution is very much needed, because those crimes are so much less frequently taken through the justice system successfully and the offence may illustrate more complex attitudinal and behavioural and thinking patterns. For general offences (not violence and sexual offences), some academics have suggested that a period of around seven years is when the risk of offending for convicted offenders and non-convicted population becomes the same.<sup>28</sup>

- 2.18 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when deciding whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.
- 2.19 Offences where taxi and private hire drivers are victims are much more frequent than offences by such drivers. Taxi and private hire drivers are often in situations where they can face victimisation in terms of violence, threat, assault and false allegations. It must be recognised that taxi and private hire drivers have access to people who are vulnerable because of their situation, very often as a sole individual unsupervised in a vehicle. A small minority of people may seek to abuse their positions, or even secure positions because of the potential to take advantage of passengers’ trust and vulnerability.
- 2.20 It is estimated that 23.5 per cent of males in England and Wales in the age range 10 – 52 in 2006 had had a previous a conviction. For adult males aged between 18 and 52 the figure is 28.2 per cent. Almost a third of all adult males in the UK have a criminal conviction. However, often individuals will come to light and be recognised because of patterns of behaviour, not always criminal behaviour. It ought to be remembered that a great deal of criminal behaviour in some categories may never come to be known about by authorities, and it is widely accepted that, for example, violence against women and girls, domestic violence and sexual crimes tend to be the most under reported and least convicted.

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<sup>26</sup> Maguire, M., Morgan, R. and Reiner, R. (2002). *The Oxford Handbook of Criminology*. 3rd Edition. Oxford: Oxford University Press.

<sup>27</sup> Kurlychek, M C, Brame, R (2007). *Scarlet letters and recidivism: Does an old criminal record predict future offending?* University of South Carolina.

<sup>28</sup> Soothill, K and Francis, B (2009) *When do ex-offenders become like non-offenders?* *Howard Journal of Criminal Justice*, 48 (4). pp. 373-387. ISSN 0265-5527



- 2.21 According to ONS crime statistics for England and Wales,<sup>29</sup> 20% of women (1 in 5) and 4% of men will experience sexual violence in their lifetime. It is vital that it is recognised that a great deal, and likely most, of the sexual abuse may never be reported. It has been suggested that some 40% of adults who are raped will not report, and unreported childhood cases are likely much higher. The Crime Survey for England and Wales (CSEW) estimated that 1.1 million adults aged 16 years and over experienced sexual assault in the year ending March 2022 (798,000 women and 275,000 men).
- 2.22 It is claimed that only some 10-15% of sexual offences are reported to the police in any year, and even when reported, sexual crimes are amongst the hardest to prove. In 2018 less than 1 in 65 reports of rape (1.5%) resulted in a charge or summons. However, according to CSEW statistics for the year ending March 2022, sexual offences recorded by the police were at the highest level recorded. In May 2021, there were 95,844 people on the sex offenders register in England and Wales, yet based on the accessing of Child Sexual Exploitation material the UK's National Crime Agency estimate that there could be between some 550,000 and 850,000 people in the UK who pose varying forms of sexual risk to children. While there is no consensus about the pathways between non-contact and contact offending, it seems sensible to consider even one incidence of possession of child sexual exploitation material must be seen as a risk flag.
- 2.23 There are a range of crimes that can be considered as sexual offences, including non-consensual crimes such as rape or sexual assault, crimes against children including child sexual abuse or grooming, and crimes that exploit others for a sexual purpose, whether in person or online. Crimes can occur between strangers, friends, acquaintances, current or ex-partners, or family members. The passage of time does not prevent the effective prosecution of sexual offences, and an increasing number of cases referred to the CPS by police feature allegations of a non-recent nature.
- 2.24 There is also complexity added to the category of sexual offences as there can be a sexual component in offences that may not be categorised primarily as a sexual offence, and the category runs a full gambit from sexually motivated homicides to non-contact internet offending in the form of possession of Child Sexual Exploitation material.
- 2.25 Sexual offences are prosecuted as part of the CPS Violence Against Women and Girls (VAWG) Strategy. This is an overarching framework to address crimes that have been identified as being committed primarily but not exclusively by men against women, but we ought not forget that men also commit sexual offences against men and boys. Reynhard Sinaga, a postgraduate student jailed for life in 2020 is who is thought to be the UK's "most prolific rapist"<sup>30</sup> was convicted of 136 rapes in Manchester and is believed by police to have assaulted over 200 men. There is a huge variation in sexual offenders, and there is a range of complex factors in their offending, which can vary hugely and significantly. Some historic crimes are no longer crimes due to changes in legislation since their conviction. For example, alterations in the age of consent that existed for gay men.

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2023#overall-estimates-of-crime>

<sup>30</sup> <https://www.judiciary.uk/wp-content/uploads/2020/12/McCann-Sinaga-Shah-judgment-111220.pdf>

2.26 There is no singular type when it comes to sexual offending, and there are many gaps in knowledge. We know that most sexual offenders are men. Sex offenders constitute a diverse population of individuals and can be classified into types based upon characteristics and motivations of offending. The most common classification systems are those differentiating between types of rapists, child molesters, female sex offenders, juvenile sex offenders and cyber-sex offenders. There is also sometimes a division between non-contact (online) and contact offending, and discussions about whether the former is a pathway to the latter. It is often said that reoffending amongst sexual offenders is lower than that of general offenders, but we need to be careful to also frame that with the general knowledge we have about the complexity and difficulty in securing convictions for sexual offences generally.

2.27 Sex offenders constitute a similarly diverse group of individuals who begin offending for a range of reasons. Many offenders do not fit into discrete categories. Like violent offenders, sexual offenders have unique personal and criminal histories, and the attitudes and beliefs that support their deviant behaviour can vary. There is no clear-cut profile of a sex offender. Some offenders were sexually abused as children, but others have no such history. Some are unable to function sexually with adult partners and so prey on children, while others also have sexual relations with adults. Research shows that sexual offenders exhibit a variety of characteristics. Abusive people, including sexual offenders, typically think they are unique, they are different from other people, they have a sense of entitlement and do not have to follow the same rules as everyone else. Rather than being unique, abusers and sexual offenders often have a lot in common with one another, including their patterns of thinking and behaving. They are also often highly manipulative of other people and situations and will employ a range of tactics that can include lying, upsetting others or intimidating them with threats. Equally, they may attempt to charm people, engender feelings of sympathy to manipulate, feign interest or concern, or attempt to elicit sympathy. Sex offenders when compared to other offenders generally:

- Are more likely to deny their behaviour and guilt, can lack empathy (and victim) empathy and ability to understand or see things from the point of view of others.
- Have inappropriate or be very fixed in attitudes and character, including attitudes to sex.
- Put themselves in places and situations where vulnerable victims are present. (Offenders may frequent an amusement arcade or join a social media site or gaming platform where they will regularly be engaging with youth on a peer level or attempt to become a taxi or private hire driver" as referred to in the Telford report).<sup>31</sup>
- The motivations to sexually offend can vary from offender to offender and offence to offence, but the specific deviant sexual motivations including paraphilias (a persistent and recurrent sexual interests, urges, fantasies, or behaviours of marked intensity involving objects, activities, or even situations

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<sup>31</sup> Para 4.193 Report of the Independent Inquiry Telford Child Sexual Exploitation available at <https://www.iitcse.com/>

that are atypical in nature) are often apparent. However sexual offenders will commit nonsexual offences.

- 2.28 Like sexual offenders, violent offenders are a diverse population, whose offences generally tend to be either expressive (a loss of control and anger) or instrumental (violence that is used to acquire or gain something, including some forms of acquisitive violence). We know that men commit far more violent offences than women and a very small group (less than 5% of the male population tend to commit around 50-70% of violent crime.<sup>32</sup> Often the most persistent violent offenders commence offending early in life and are characterised by criminal versatility, but because of their overt nature, much violence (with exceptions around domestic and intimate partner violence) has tended to be detected and prosecuted. Serious violence tends to result in conviction.
- 2.29 The risk of harm is not always linked to the offences committed previously, as persistent and repeat offenders often escalate or fluctuate in terms of the severity of crimes and the type of offences that they commit, and offenders often are not specialist and do not restrict themselves to one sort of crime.
- 2.30 Criminal versatility and a diversity of criminal offence types can also be indicative of underlying antisocial attitudes. Previous behaviour is a good indicator of future risks. Any conviction for a serious violent or sexual offence suggests at a degree of risk to the public that is heightened over those who have no convictions.
- 2.31 Beyond a very narrow core of hard cases, there are issues in both the boundaries of what constitutes the kind of behaviour that can be considered dangerous, which is open to dispute, and to what degree of likelihood of future risk should be required before an individual can be said to present a danger of future offending and subject to restrictions?
- 2.32 What is vital when considering violent and sexual offences are the access and opportunity that the offender requires to attempt to commit any offence. This is the focus of situational and administrative criminology. Situational crime prevention (SCP) is an applied criminological paradigm founded on two distinct, complementary conceptions of criminal situations. The first is the rational choice and the second is the routine activities perspectives.<sup>33</sup>
- 2.33 SCP approaches consider criminal situations and understand that crime occurrences are essentially 'opportunities' that arise when an already motivated or criminally disposed offender, having rationally weighed up in terms of effort, risk, and reward decides to commit an offence. All else being equal, a crime is more likely to be committed when it requires little effort, when the would-be offender judges that there is a low risk of that crime being detected and punished, and when they anticipate they will meet their intended outcome. Core to the crime is a suitable target being available,

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<sup>32</sup> Moffitt, T. E. (1993). Adolescence-limited and life-course-persistent antisocial behaviour: A developmental taxonomy. *Psychological Review*, 100(4), 674–701. <https://doi.org/10.1037/0033-295X.100.4.674>

<sup>33</sup> Cornish, Derek B., and Ronald V. Clarke. "Crime as a rational choice." *Criminological theories: Bridging the past to the future* (2002): 77-96, and *Social Change and Crime Rate Trends: A Routine Activity Approach*, Lawrence E. Cohen and Marcus Felson Vol. 44, No. 4 (Aug., 1979)

there is the lack of a suitable guardian to prevent the crime from happening, and a motivated offender is present.

- 2.34 Licensing is a form of safeguarding and risk management. By virtue of the role and function of what opportunities and privileges a taxi or private hire drivers' licence affords, there can be a great deal of opportunity to access people who are situationally vulnerable, particularly those in the night-time economy. John Worboys (also known as John Radford) the British convicted serial sex offender, known as the Black Cab rapist, was convicted in 2009 for attacks on 12 women committed between 2007 and 2008. In 2019, he was convicted for attacks on four more women, the earliest of which took place in 2000. Police say he may have had more than 100 victims while operating in London and Dorset.
- 2.35 The taxi trade and licensing has also featured as part of the backdrop of discussions of Child Sexual Exploitation in a number of English towns. These crimes have frequently been discussed as the product of 'grooming gangs'. While this term has been controversial, the night-time economy (NTE) and particularly take aways, taxi and private hire companies and children's homes all also featured as part of the situational and social context of offending across a number of English towns such as Telford, Rotherham, Bradford, Luton, and Rochdale. Specifically vulnerable, young white females were predominately the victims of Bangladeshi and Pakistani male perpetrators', some of whom were employed as taxi drivers.
- 2.36 While the term 'grooming gangs' has become a contentious one bringing often unhelpful claims and counterclaims, the reality is that much Child Exploitation (CE), including Child Sexual Exploitation and Child Criminal Exploitation happens when vulnerable young people (under the age of 18) are encouraged, forced or manipulated into criminal or sexual acts. While not all victims of CE and CSE are vulnerable by virtue of factors other than age, many victims have a range of heightened vulnerabilities. These can include problems at home, statutory care experiences, trauma, emotional and physical neglect, experiences with a family member with mental health or substance use disorders, experiences of domestic violence and abuse, poverty, experiences or racism and discrimination and experiences of violence in the community. Those in the taxi and private hire trades can also gain useful local knowledge and insight around concerns about exploitation and can be extremely useful in crime prevention and encouraging and promoting community safety.
- 2.37 Individuals applying for or renewing taxi and private hire driver's licences are subject to an enhanced DBS with barred lists check. There are debates as to whether taxi and private hire driving should become a regulated activity within the provisions of the Safeguarding Vulnerable Groups Act 2006.
- 2.38 When making decisions around individuals being 'fit and proper' it is important that too much weight is not placed on individual testimony or evidence that cannot be substantiated. Rather, a focus should be on:
- What further offence(s) might the individual commit or exhibit?
  - Would they cause serious harm?

- Who might the victim(s) be? Can they be accessed via occupational role?
- What features might contribute to serious harm (the risk factors)?
- What might protect against serious harm (the protective factors) and are they able to be guaranteed?
- How probable is a high-risk scenario (likelihood)?
- How quickly could a further serious harm take place (imminence)?

2.39 Focusing on questions of access and opportunity and seeing licensing as a mechanism of safeguarding is vital when deciding if someone should be -licensed. While refusal of a licence is a restriction for the individual, it is also a method of situational safeguarding that can serve to prevent future victims.

### **Chapter 3: ‘Taxi’ and Private Hire Licensing Overview**

3.1 Taxis and private hire vehicles are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi or private hire driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver’s hands.

3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for taxi and private hire licensing.

3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi and private hire licensing is detailed in the DfT *“Taxi and Private Hire Licensing best practice guidance for licensing authorities in England”* para 3. which states:

“The primary and overriding objective of licensing [the taxi and PHV trades] must be to protect the public.”

Supported by para 3.2 of the DfT Statutory Taxi and Private Hire Vehicle Standards which states:

"When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public."

And acknowledged in part 1 of the Welsh Government Guidance document “Taxi and Private Hire Vehicles: Licensing Guidance” which states:

“The licensing regime needs to be updated to remedy the current problems; ensure that the taxi and PHV licensing system is fit for modern Wales; and promote public safety.”

3.4 Within the two licensing regimes, there are 5 types of licence: taxi vehicle; private hire vehicle; taxi driver; private hire driver and private hire operator.

- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT,<sup>34</sup> there are no national standards.<sup>35</sup>
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, it is for the applicant or licensee to satisfy the licensing authority that they are “fit and proper”, not for the authority to prove that they are not.
- 3.9 The authority has powers to grant or refuse a licence, renew or refuse to renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.10 What is the role of these powers, and how do authorities determine an application, or take action against a licence? Each Licensing Authority should adopt a cohesive Taxi Licensing Policy.<sup>36</sup> If a matter or situation is not addressed or covered by the Policy, that does not mean that matter cannot be taken into account by the Authority: in such circumstances the Authority will have to consider the issue from first principles, as if it had not adopted any policy on this topic.
- 3.11 Whenever a decision is made by a licensing authority (whether that is by Councillors or Officers), full and detailed reasons for that decision must be given.<sup>37</sup> This requirement is not just for refusals. It is important that all decisions are recorded correctly, and reasons given. This will include grants (on first application and renewals), addition of conditions, suspension, revocations and refusals. To assist decision makers, [Appendix 1](#) contains guidance on recording decisions against NR3S criteria and [Appendix 2](#) contains an example of a Decision Notice, both of which are adaptable for a council's own purposes.

## **Taxi & Private Hire Drivers**

- 3.12 There are two different occupations: taxi drivers and private hire drivers. In each case there are identical statutory criteria to be met before a licence can be granted. Some

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<sup>34</sup> “Statutory Taxi and Private Hire Vehicle Standards” Department for Transport 2020 (available at <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards> and 3 of “Taxi and Private Hire Vehicle Licensing best practice guidance for licensing authorities in England” Department for Transport revised in 2023 (available at <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>)]

<sup>35</sup> The Government has stated that it will introduce national standards for taxi and private hire licences. However, at the time of writing (May 2024) this will be after the next General Election. In Wales, Welsh Government has consulted on new legislation, but again this is awaited.

<sup>36</sup> see Para 3.1 Dft Statutory Standards

<sup>37</sup> This was made clear by the Court of Appeal in R (app Hope and Glory Public House Ltd) v Westminster City Magistrates’ Court [2011] EWCA Civ 31, [2011] 3 All ER 579, CA.

authorities grant separate taxi or private hire licences whilst others grant “dual” or “combined” licences to cover both occupations. Some authorities also issue “restricted” licences to drivers who only wish to perform home to school transport (H2S) work. Irrespective of the type or purpose of the licence, the decision making criteria remain the same.

3.13 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, comply with tax conditionality requirements and be a “fit and proper” person.<sup>38</sup>

3.14 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.

3.15 An applicant must have the right to remain, and work in the UK.<sup>39</sup> Again, this is ultimately a question of fact, and the local authority should follow the guidance issued by the Home Office.<sup>40</sup>

3.16 The tax conditionality rules require any driver applying to renew their licence to demonstrate they are registered for tax with HMRC; new applicants must acknowledge that they will be required to register with HMRC.<sup>41</sup>

3.17 Those requirements are all questions of fact. It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*.<sup>42</sup> Silber J said:

“... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”

3.18 This is reflected in a test suggested by the DfT Statutory guidance (although it is not a statutory test):

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?<sup>43</sup>

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<sup>38</sup> Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers taxi drivers.

<sup>39</sup> Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of taxi drivers.

<sup>40</sup> “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, June 2024 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

<sup>41</sup> <https://www.gov.uk/guidance/complete-a-tax-check-for-a-taxi-private-hire-or-scrap-metal-licence>

<sup>42</sup> [2002] EWHC 1145 (Admin), [2003] RTR 199 Admin Crt

<sup>43</sup> <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards/statutory-taxi-and-private-hire-vehicle-standards#decision-making:-:text=5.4%20Fit%20and%20proper%20test>

3.19 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

3.20 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers’ licence?

3.21 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”<sup>44</sup>

This “information” can include any pre-conditions or tests that they consider necessary

3.22 Some of these are mandatory, such as Proof of right to work, Tax conditionality on renewal, NR3S search (conducted by the licensing authority, but this is only advisory in Wales). Others are universally required such as medical assessments.<sup>45</sup> Some authorities may require further information such as:

- Enhanced DBS Certificates (recommended although widely regarded as mandatory),
- sign-up to the DBS update service;
- Knowledge tests;
- Driving tests;
- Disability awareness/training;
- Periodic signed declarations;
- Spoken and written English tests;
- CSAE (child sexual abuse and exploitation) awareness/training;
- County lines awareness/training.
- Relevant taxi qualifications

3.23 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.24 In making the decision, as to whether an applicant is, or remains a fit and proper person, the licensing authority can take into account any information which is relevant to determining that question. This can include information obtained by the LADO (the Local Authority Designated Officer). The LADO is a statutory appointment under the Children Act 1989 whose role is to oversee and manage investigations following allegations being made against individuals who work or come into contact with children regularly. Their role is described in detail in Working Together to Safeguard Children 2023. The basis of the lawfulness of the sharing of LADO information is that it is being used by the

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<sup>44</sup> Local Government (Miscellaneous Provisions) Act 1976 s57(1)

<sup>45</sup> See Local Government (Miscellaneous Provisions) Act 1976 s57(2)



Licensing Authority for the same purpose as it was obtained by the LADO, namely safeguarding.

- 3.25 Both taxi and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<sup>46</sup>) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker.<sup>47</sup>
- 3.26 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Adult and Children Barred Lists checks<sup>48</sup> and to provide this to the Licensing Authority. This must be for “other workforce”+ “taxi”. Where a driver undertakes home to school contract work for an Education Authority (EA), they must obtain a different, separate Enhanced DBS Certificate to provide to the Education Authority, because that activity is “regulated activity” within the meaning of the Safeguarding Vulnerable Groups Act 2006, whereas general or day to day “private hire and taxi driving is not. The EA Enhanced DBS is for “Child Workforce”. A Licensing Authority cannot accept a Child Workforce DBS, and an Education Authority cannot accept an Other Workforce + Taxi DBS.<sup>49</sup> Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence. Some licensing authorities issue “restricted” licences solely for home to school transport use.
- 3.27 If any new applicant has spent 6 months or more (whether continuously or in total), while aged 18 or over residing outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.<sup>50</sup> Where an applicant is unable to provide a satisfactory criminal record check, a licence will not be granted because the licensing authority cannot be satisfied as to their fitness and propriety.
- 3.28 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person’s safety and

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<sup>46</sup> “Protected convictions” and “protected cautions” are generally minor and elderly matters that do not appear on any DBS Certificates.

<sup>47</sup> See *Adamson v Waveney District Council* [1997] 2 All ER 898 QBD

<sup>48</sup> “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” - para 6.2 “*Statutory Taxi and Private Hire Vehicle Standards*” Department for Transport 2020 (available at <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>).

<sup>49</sup> This is because School Transport is “regulated activity” within the Safeguarding Vulnerable Groups Act 2006, whilst general taxi and private hire driving is not.

<sup>50</sup> There are considerable discrepancies between Government guidance across England and Wales about the timescales when overseas information is required. In Wales the Taxi and Private Hire Vehicles: Licensing Guidance refers to 6 or more continuous months spent outside the UK since the applicant’s 10th birthday. The Home Office Guidance on the application process for criminal records checked overseas referred to in the DfT Statutory taxi and private hire vehicle standards requires criminal record checks where you have lived for 12 months or more (whether continuous or in total), in the last 10 years before the application, while aged 18 or over.

*This paragraph has been revised having regard to these recommendations.*

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants/guidance-on-the-application-process-for-criminal-records-checks-overseas>

<https://www.gov.wales/taxi-and-private-hire-vehicles-licensing-guidance-html>

suitability.<sup>51</sup> This may be 'never' due to the type of offence/behaviour and the risk of re-offending capability as a taxi driver.

3.29 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a fit and proper person to hold such a licence.

3.30 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.

3.31 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and their family is not a consideration that can be taken into account.<sup>52</sup> This then leads to the question of whether the stance taken by some local authorities is robust enough to achieve that overriding aim of public protection.

3.32 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that those making these decisions, whether they are Councillors or Officers, recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. The policy should only be departed from in exceptional circumstances and for justifiable reasons which should be carefully and comprehensively recorded. Licensing Authorities should monitor their decisions on an annual basis and examine how often they depart from the policy.<sup>53</sup>

3.33 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour. Predators want taxi drivers' licences as it gives them easy access to victims.<sup>54</sup> It should be noted that a

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<sup>51</sup> See para 5.15 "Statutory Taxi and Private Hire Vehicle Standards" Department for Transport 2020 (available at <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>)

<sup>52</sup> *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 Admin Crt and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin), [2012] RTR 15 Admin Crt

<sup>53</sup> See para 3.5 of DfT Statutory Standards

<sup>54</sup> Telford report volume 3 para 4.193: 'That is in my view a significant result and one which is more likely to be attributable to some feature of the job which is attractive to perpetrators, rather than to chance. The obvious feature that a CSE perpetrator

licensing authority cannot prevent a person who has been refused a licence (or had it revoked) from re-applying to that, or any other, authority.

- 3.34 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. There should be a high standard of acceptability to enter the taxi industry. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. It also undermines the position and reputation of the vast majority of professional licensed drivers. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.35 Licensees are expected to demonstrate appropriate professional conduct at all times, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.36 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.37 As a society, we need to ask the question “who is driving my taxi or private hire vehicle?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law-abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi and private hire drivers. This is detrimental to all involved.
- 3.38 In England, when any action is taken in relation to a drivers’ licence: refusal to grant or renew, revocation or suspension, the authority must apply the legal test to determine if this action must be entered by that authority on the NR3S database in accordance with

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*would find attractive is that taxi drivers hold a position of responsibility to the public; people tend to trust them. It also shows why an effective system of licensing and enforcement is vital, and why the public must know about the standards they are entitled to expect: they must know how to complain and must be able to make a complaint easily and quickly.’* Report of the Independent Inquiry Telford Child Sexual Exploitation available at <https://www.iitcse.com/>

the Taxi and Private Hire Licensing (Safeguarding and Road Safety) Act 2022. It is recommended in DfT Guidance that this action is also undertaken in Wales. When considering any new application, the name or names of the applicant must be checked against the NR3S database. There is no mechanism for a driver to surrender or hand in their licence, or to withdraw an application to avoid suspension, revocation or refusal, and thus avoid such an entry being made. In such circumstances, licensing authorities must make decisions to revoke, suspend or not renew. This will ensure the NR3S Database is accurate.<sup>55</sup> A failed applicant for a licence cannot avoid the recording of a refusal.

## Private Hire Operators

- 3.39 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority.<sup>56</sup> A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK, on renewal meets the HMRC Tax Conditionality requirements, and is a fit and proper person.<sup>57</sup>
- 3.40 As with taxi drivers the role of the PHO and their staff goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. e.g. periods away from home, destinations, regular journeys. It is therefore vital that a PHO and their staff are as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Taxis can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a taxi driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.41 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.42 The decision is made by the licensing authority. Each authority can decide by whom those decisions are made under their Scheme or Schedule of Delegations (contained in the Council’s Constitution). Decisions can be made by Councillors sitting on a Committee or delegated to Sub-committee, or officers.
- 3.43 Spent convictions, but not protected convictions, can be taken into account when determining suitability for a licence, and these must be declared on the application form. In addition, the applicant (or licensee on renewal) should be asked to obtain and then provide a Basic Disclosure from the Disclosure and Barring Service.

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<sup>55</sup> See Journal of Licensing (2019) 24 JoL 46

<sup>56</sup> See *Dittah v Birmingham City Council, Choudhry v Birmingham City Council* [1993] RTR 356 QBD

<sup>57</sup> Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

3.44 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.

3.45 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and in the absence of a DfT test, this is suggested:

“Without any prejudice, and based on the information before you, would you be comfortable providing sensitive information such as holiday plans, movements of your family or other information to this person, and feel safe in the knowledge that such information would not be used or passed on for criminal or unacceptable purposes?”<sup>58</sup>

3.46 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. A condition should be imposed on a PHO licence requiring them to have a policy to undertake checks on those they engage (whether as employees, workers or independent contractors) within their business to satisfy themselves that they are fit and proper people to undertake that task using the same criteria as the licensing authority used in relation to the PHO. The PHO must then retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

3.47 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation.<sup>59</sup> Only by so doing can a decision be made as to the fitness and propriety of the operating entity. In these circumstances, a condition should be imposed on the PHO licence requiring notification to the licensing authority of any changes in membership any partnership or directors or secretary of a limited company. Such notification must be made within 7 days of the alteration and be accompanied by a Basic DBS for every new person.

## **Vehicle Proprietors**

3.48 Similar considerations apply to the vehicle proprietors, both taxi and private hire. Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver's licence), they clearly have an interest in the use of the vehicle. That is to say all of those named on the

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<sup>58</sup> This is a slightly modified version of the suggested test in Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 12.35

<sup>59</sup> See s57(1)(c) of the 1976 Act.

licence as proprietor or part proprietor.<sup>60</sup> They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety. Where any insurance replacement vehicle is involved, special considerations may apply.

3.49 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or who may be at risk of being, or are being, abused, exploited or enslaved.

3.50 In relation to both taxis and private hire vehicles, the local authority has an absolute discretion over granting the licence<sup>61</sup> and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself.

3.51 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions (but not protected convictions or protected cautions) on initial application and every subsequent renewal. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs. This will not be required for proprietors who are already licensed as drivers and are registered with the DBS update service.

3.52 in the absence of a DfT test, this is suggested as a suitable test:

“Without any prejudice, and based on the information before you, would you be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?”<sup>62</sup>

## **Chapter 4: Guidance on Determination**

4.1 This Guidance is not binding on licensing authorities. They are all independent bodies, and it is for them to determine their own standards. This Guidance is intended to encourage greater consistency in decision making where it concerns the suitability of applicants for taxi and private hire licences.

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<sup>60</sup> "Proprietor" is defined in s80 Local Government (Miscellaneous Provisions) Act as: ""Proprietor" includes a part proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the vehicle under that agreement."

<sup>61</sup> S37 of the 1847 Act in relation to taxis; section 48 of the 1976 Act to private hire vehicles.

<sup>62</sup> This is a slightly modified version of the suggested test in Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 8.98

- 4.2 This Guidance is also intended to enable licensing authorities, as the regulators of taxi and private hire drivers, vehicles and operators, to set standards that protect the public, and uphold the reputation of the trade and those licensed to work in it. As with any regulated activity, absolute certainty of safety cannot be achieved, and there will always be a tension between those regulated, and the regulators. The aim of this Guidance is to enable regulators to protect the public, whilst not preventing the vast majority of decent, law-abiding applicants and licensees to obtain and retain those licences. The 'public' is not restricted to passengers. It encompasses everyone: passengers, other road users and, of course, drivers.
- 4.3 As is clear from the [Chapter 2: Offenders, Offending, Re-offending and Risk of Harm - An Overview](#) above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk may reduce over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.4 Many members of our society use, and even rely on, taxis and private hire vehicles to provide transportation services. This is especially true of disabled and vulnerable people. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.5 Ideally, all those involved in the taxi and private hire trades (taxi and private hire drivers, taxi and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.6 It is essential those making decisions (whether Councillors or officers) undertake regular (annual) training in the legislation relative to licensing and the purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

### **Pre-application requirements**

- 4.7 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

#### **Vehicles:**

- Basic DBS checks and overseas checks for the vehicle proprietor;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space, comfort and any similar considerations
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.

- Electric Vehicles may have additional considerations

#### **Drivers:**

- Enhanced DBS checks (Other Workforce + Taxi) with update service and overseas checks;
- Checks made to the National Anti-Fraud Network NR3S database on refusals, revocations, and suspensions of taxi and private hire licences;
- Medical checks (Group 2 Standard as a minimum);
- Knowledge of the geographic area (for taxi and dual licences);
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation, county lines and safeguarding training;
- Right to work checks;
- Tax conditionality checks.

It should be noted that records only remain on the NR3S database for a period of 11 years after which they must be removed under S 4(3)(b) of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022. This means that there will no longer be any record of whatever caused the entry to be made. This is unsatisfactory because any subsequent search after 11 years have elapsed from the date of entry will not reveal anything and is therefore worthless. It is believed that the period is set at 11 years to prevent a conviction that has become protected being revealed. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 (SI 2013/1198) contains a long list of offences that will never become protected so it is some comfort that they will be disclosed on an Enhanced DBS in the normal way.

#### **Operators:**

- Basic DBS checks and overseas checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area;
- CSAE and County Lines Training for operator and staff
- Right to work checks;
- Tax conditionality checks.

4.8 The licensing authority sets its own application requirements which will be detailed in its licensing policy.

4.9 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.

4.10 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).



- 4.11 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a taxi or private hire proprietor's licence.
- 4.12 "Fit and proper" means that the individual (or in the case of a private hire operator's licence, the limited company together with its directors and secretary, or all members of a partnership<sup>63</sup>) is "safe and suitable" to hold the licence.
- 4.13 In determining safety and suitability, the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person's behaviour whilst working in the taxi or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament. The categories of behaviours described below are introduced as "offences" which may or may not lead to convictions. Any such behaviours will be taken into account, whether or not it resulted in convictions or other sanctions.
- 4.14 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction.<sup>64</sup> Fixed penalties and community resolutions will also be considered in the same way as a conviction.<sup>65</sup>
- 4.15 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute, police decide on no further action (NFA), bailed, released under investigation or where an investigation is continuing) can and will be taken into account by the licensing authority.<sup>66</sup> In addition, complaints and or investigations where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.16 In the case of any new applicant who is under investigation or has been charged with any offence and is awaiting trial, the determination may be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.17 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.18 Any offences committed, or unacceptable behaviour reported whilst driving a taxi or private hire vehicle, concerning the use of a taxi or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the

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<sup>63</sup> Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

<sup>64</sup> This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

<sup>65</sup> This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

<sup>66</sup> See *R v Maidstone Crown Court, ex p Olson* [1992] COD 496, QBD; *McCool v Rushcliffe Borough Council* [1998] 3 All ER 889, QBD; and *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 Admin Crt.

fact that any other offences were not connected with the taxi and private hire trades will not be seen as mitigating factors.

- 4.19 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.20 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.21 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 4.22 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (drivers, vehicles and operators) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.23 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.24 Although the direct impact on the public varies depending upon the type of licence applied for or held, to maintain public confidence in the integrity of the taxi and private hire licensing regimes, it is suggested that the same standards are applied to all licences, except motoring convictions in relation to a private hire operator.
- 4.25 This Guidance suggests minimum periods of time that should elapse between the date of conviction or completion of the sentence (whichever is later) and the grant of a licence. Those periods are for single convictions. Where a person has more than one conviction, and can be seen as a persistent offender, this will raise serious questions about their safety and suitability. Convictions do become less important over time (hence the time periods) but multiple convictions or continued offending over any period of time will always be of significant concern to a licensing authority. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.

- 4.26 Where an applicant/licensee is convicted of an offence, or has evidence of unsuitable behaviour, which is not detailed in this guidance, the licensing authority will take that conviction and/or behaviour into account and use these guidelines as an indication of the approach that should be taken.
- 4.27 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual. It must be remembered that these are guidelines. It is for each authority to determine and adopt its own previous convictions policy, and then determine applications in the light of that policy.
- 4.28 It must always be borne in mind that these are Guidelines, not fixed periods, and if there are “truly exceptional circumstances”<sup>67</sup> the time periods can be reduced in individual cases. Such instances should only be for “truly exceptional circumstances” and not frequent occurrences. The decision makers must consider each case on its own merits, taking into account all factors, including the need to protect the public, the circumstances and effect of the offence, and any mitigation that has been offered. However, the conviction itself cannot be reconsidered.<sup>68</sup>

## **Drivers**

- 4.29 As the criteria for determining whether an individual should be granted or retain a taxi driver’s licence are identical to the criteria for a private hire driver’s licence, the two are considered together.
- 4.30 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 4.31 As stated above, where an applicant persistently offends, which shows a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.32 In relation to single convictions, the time periods detailed in the following paragraphs should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted. For motoring offences see the paragraphs headed ‘Motoring Offences’ below.
- 4.33 As stated above, the categories of behaviours described below are introduced as “offences” which may or may not lead to convictions. Any such behaviours will be taken into account, whether or not it resulted in convictions or other sanctions.

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<sup>67</sup> DfT Statutory Standards Guidance para 5.15

<sup>68</sup> *Nottingham City Council v Farooq (Mohammed) Times, October 28, 1998 QBD*

## **Barred lists**

4.34 A licence will not be granted to a person who is on any barred list.

## **Offences resulting in death**

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

## **Offences involving exploitation and criminal harassment**

4.36 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment or criminal harassment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, stalking without violence, but this is not an exhaustive list.

## **Offences involving violence against persons, property, animals or the State**

4.37 Violence includes situations where the victim is put in fear, alarm or distress without any physical contact. It is accepted that the concept of “violence” is wide, but any such behaviour will be of concern. This Guidance does not differentiate between different levels of violence. It will be for the licensing authority to determine whether there is any justification for departing from this time period, dependant of the facts of a particular case.

4.38 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. Where the offence of violence was committed against a child or vulnerable adult a licence will never be granted.

## **Offences involving Public Order**

4.39 Where an applicant has a conviction for a public order offence or similar that is not in itself an act of violence, a licence will not be granted for a period of 5 years.

## **Offences involving Possession of a weapon**

4.40 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **Offences involving Sex, indecency or obscene materials**

4.41 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted. This includes any sexual harassment.

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

### **Offences involving Dishonesty**

4.43 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Offences involving Alcohol abuse, Misuse or Dependency**

4.44 Where an applicant has any conviction for, or related to drunkenness not in a motor vehicle, a licence will not be granted until at least 5 years have elapsed since the completion of the sentence imposed. If the applicant has a number of convictions for drunkenness and or there are indications of a medical problem associated with possible abuse, misuse of, or dependence on alcohol, the applicant will also be subject to additional medical testing/assessment before the application is considered. If the applicant was found to be dependent on alcohol, a licence will not be granted unless at least 5 years have elapsed since the dependency ceased.

### **Offences involving Drugs abuse Misuse or Dependency**

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

4.46 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

4.47 If there are indications that an applicant or licensee has, or has had a history of, a medical problem associated with possible abuse, misuse or dependence of drugs, the applicant will also be subject to additional medical testing/assessment before the application is considered. If the applicant was found to be dependent on drugs, a licence will not be granted unless at least 5 years have elapsed since the dependency ceased.

### **Offences involving Discrimination**

4.48 Where an applicant has a conviction involving or connected with discrimination in any form, including non-compliance with the Equality Act 2010, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed. This includes e.g. refusals to carry assistance dogs or to provide mobility assistance.

### **Offences involving Regulatory non-compliance**

4.49 Regulatory crimes include local authority offences, licensing matters, and other offences prosecuted by other authorities. It also includes matters relating to the administration of justice such as failing to surrender to bail, and any other matter where regulations or requirements have been ignored or broken. These offences demonstrate a lack of compliance with legal requirements which would clearly be a worry in relation to taxi and private hire licensees. Serious consideration would need to be given as to whether they are a safe and suitable person to hold a licence.

## Motoring Offences

- 4.50 Taxi and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction can demonstrate a lack of professionalism and will be considered seriously. A single occurrence of a minor traffic offence may not prohibit the grant of a licence or result in action against an existing licence. Subsequent convictions suggest the fact that the licensee may not take their professional responsibilities seriously and may therefore not be a safe and suitable person to be granted or retain a licence.
- 4.51 Where an applicant has a conviction for drink driving or driving under the influence of drugs or failing to provide a specimen in relation to a driving matter, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. With drug offences, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.52 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any disqualification imposed, whichever is the later.<sup>69</sup>
- 4.53 Penalty points applied to a DVLA driving licence remain active for either 3 or 10 years, which may be from the date of the offence or the date of conviction depending upon the offence as detailed in “Penalty points (endorsements)”.<sup>70</sup> They may be removed from the licence after 4 or 11 years. That action does not negate the offence that led to the points being imposed. Penalty points (and the underlying offence) will be relevant and taken into consideration for 4 or 11 years from the date of the conviction, or the date of the offence depending on the type of offence (see “Penalty points (endorsements)”).<sup>71</sup>
- 4.54 By attaining 7 or more penalty points on their DVLA licence a driver is demonstrating they may not be fit and proper and the authority should assess their suitability. It is suggested part of the assessment is to undertake a driver awareness course and/or pass a driver assessment, with no more than 8 minor infringements, within 2 months of notice from the authority they are considering the suitability of the licence holder. Failure to do so strongly suggests the driver is not fit and proper and not be licensed until a period of 12 months has passed with no further convictions and has passed a driver assessment since the last conviction.
- 4.55 Any offence which resulted in injury to any person or damage to any property (including vehicles), or any insurance offence then a licence will not be granted until at least 7 years have elapsed since the completion of any sentence.
- 4.56 Any driver who has accumulated 12 or more points on their DVLA licence and has not been disqualified under the totting up procedure by a court as a result of making

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<sup>69</sup> Research shows driving while using a handheld device is potentially more dangerous than driving under the influence of alcohol: <https://www.trl.co.uk/news/transport-select-committee-road-safety-enquiry-on-the-use-of-mobile-phones>) Using an electronic device which is ‘hands free’ or ‘factory fitted’ does not constitute an offence on its own but drivers need to maintain proper control of the vehicle at all times. Any behaviour or activity other than driving may be considered an offence where control of the vehicle is compromised.

<sup>70</sup> Available at: <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>

<sup>71</sup> Available at: <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>

exceptional hardship arguments shall not be able to advance such arguments before the licensing authority as they are not a relevant consideration in determining what action the authority should take. Any such driver will not be licensed for a period of 5 years from the date of the accumulation of 12 or more points.

4.57 Any driver who has been disqualified as a result of “totting-up”, which erases the points when the licence is restored, will not be licensed for a period of 5 years from the date of the disqualification. Other disqualifications will need to be investigated, the reasons ascertained, and a decision will be based on the results of that investigation.

4.58 Drivers who commit parking, obstruction and other such motoring offences that do not attract penalty points are not displaying a professional approach to their work. Persistent offenders should be reported to their licensing authority who may consider a period of suspension depending on the severity and frequency of the incidents reported.

### **Behaviours**

4.59 Driver behaviours that fall short of criminal behaviour but are indicators of more sinister behaviour need to be addressed to maintain confidence in the taxi trades and to stop unwanted behaviours before they evolve into criminal acts.

4.60 Behaviours such as

- Asking a passenger for their contact or social media details
- Asking personal or intimate questions
- Inappropriate physical contact with passengers or invade their personal space
- Inappropriate conversations, questions or behaviour

This is more important if the passenger is a lone vulnerable individual.

4.61 Except in the most serious of cases, drivers should be given a warning in the first instance, if appropriate sent on refresher safeguarding training and explained how the behaviour may be perceived by a vulnerable passenger.

4.62 If the behaviour, on the balance of probability, is repeated and considered to be predatory in nature then any applicant should not be licensed.

4.63 Where an applicant or licence holder has a conviction for an offence contrary to any legislation relating to taxi or private hire activity not covered elsewhere, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Private Hire Operators**

4.64 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others or used by the operator or their staff for criminal or other unacceptable purposes.

- 4.65 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.66 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.
- 4.67 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, except motoring offences to recognise the operator is not connected with the use of a vehicle, which are outlined above.

### **Vehicle proprietors**

- 4.68 Vehicle proprietors (both taxi and private hire) have two principal responsibilities.
- 4.69 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.70 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.71 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.72 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.



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# Section 4

## DUAL DRIVER LICENCES

### (Hackney Carriage and Private Hire)

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**Town Police Clauses Act 1847**

**Local Government (Miscellaneous Provisions) Act 1976**

#### **Implementation of policy**

**Drivers** – Drivers are licensed for a 3 year period. The changes proposed are summarised in appendix 3. The proposal for drivers is that for new applicants the conditions apply from 1 April 2025. For existing drivers the proposal is to apply at renewal of licence except where existing certificates for medicals and DBS require updating before the date of renewal of the drivers licence. In these cases the new conditions will apply for medicals and DBS and all other conditions will then apply. For those drivers who renew before 1 April 2027 there will be a lead in period of 6 months to complete training as it is recognised that the availability of training is not within the control of the drivers.

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The Council issues dual driver's licences. That means that once you hold a driver's licence, you can drive any Council licensed Hackney Carriage or private hire vehicle.

This reduces the burden on drivers who may wish to drive either type of vehicle, reduces the costs to the drivers and the Council, and as the criteria for issue and retention of both Hackney Carriage and private hire drivers' licences are identical, there is no practical or legal reason not to do so.

This document contains the policy, Code of Conduct, legislation and Byelaws relating to your licence.

The Council has the power to make byelaws relating to Hackney Carriage drivers under the legislation, and it has done so. The byelaws only apply when you are using your licence to drive a Hackney Carriage.

There is also a power to attach conditions to private hire drivers' licences, but the Council has decided not to attach standard conditions to these licences.

As it issues dual licences, it has a Code of Conduct for Taxi Drivers which applies to both Hackney Carriage and private hire activity. This Code is not a condition: it is a standard of behaviour which the Council expects drivers to maintain. Any failure to comply with the Code will lead to the Council questioning whether you remain a safe and suitable person to drive a Hackney Carriage or private hire vehicle.

A dual driver's licence is referred to as a "taxi drivers licence" and drivers are referred to as "taxi drivers" within the Council and for the remainder of this document.

## **Introduction/Code of Conduct**

- 4.1 The purpose of licensing taxi drivers is to protect the public, including passengers and others who may otherwise be placed at risk from unlicensed and potentially dangerous drivers.
  
- 4.2 It is a privilege to hold a taxi driver's licence and licensees have responsibilities to their passengers and customers, other road users and the public generally. The Council has been satisfied that when you applied for your licence you were a safe and suitable person to have that licence granted. In assessing that, the Council took into account your entire character and behaviour. This not only includes times when you are working as a taxi driver, but it all other times as well. This can include your use of social media as well as other forms of communication. The requirement to satisfy the Council that you are a safe and suitable person continues throughout the duration of the licence. If at any time you as a licensee fall below the standards expected of a new applicant, the Council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence. It is no defence to argue that your actions took place when you are not working as a taxi driver. You should appreciate that under the previous convictions policy (available at section 3), if the unacceptable or criminal behaviour took place whilst you were driving as a taxi driver that will be viewed as an aggravating feature by the Council.

- 4.3 In many cases a taxi driver is the first person that a visitor to the District will encounter following arrival at an airport, railway station or bus station. Taxi drivers are ambassadors for the District and that first impression can affect a person for their entire visit. Taxi drivers should be aware of this and act accordingly at all times.
- 4.4 Taxi drivers can also be the eyes and ears of their communities. In addition to travelling far and wide around the area they also have close contact with people from every part of society. This means they can quickly establish when situations are not normal. That could be that a person has not made a booking that is expected which may be as a result of them falling ill. If they live alone the taxi driver may be the only person to have realised that there is a problem. Taxi drivers are also very aware of the movements of people. They are in a position to recognise where children may be being used for criminal purposes (for example County lines drug trafficking) or being moved for the purposes of abuse or exploitation. They may also recognise similar movements of adults in relation to modern slavery and other forms of abuse.
- 4.5 By working closely with the Council and other agencies the role of the taxi driver can be vital in protecting vulnerable people within the community.
- 4.6 Please note, this section reminds you of some of the important legal requirements with which you must comply. This is not a comprehensive list. You should familiarise yourself with the Town Police Clauses Act 1847 (<https://www.legislation.gov.uk/ukpga/Vict/10-11/89>), the Local Government (Miscellaneous Provisions) Act 1976 (<https://www.legislation.gov.uk/ukpga/1976/57>) and all other relevant legislation.
- 4.7 You must understand and comply with the legal requirements relating to your taxi Driver Licence and the legal requirements and conditions attached to the Hackney Carriage or Private Hire Vehicle Licence of the vehicle you drive. Failure to comply with the requirements may result in your taxi Driver Licence being suspended or revoked.
- 4.8 The Council offices for Hackney Carriage and private hire licensing purposes is: -

Cumberland Council  
Allerdale House  
New Bridge Road  
Workington  
Cumbria  
CA14 3YJ  
[licensing1@cumberland.gov.uk](mailto:licensing1@cumberland.gov.uk)

Cumberland Council  
Civic Centre  
Rickergate

Carlisle  
Cumbria  
CA3 8QG  
[licensing2@cumberland.gov.uk](mailto:licensing2@cumberland.gov.uk)

Cumberland Council  
Whitehaven Commercial Park  
Moresby Parks  
Whitehaven  
Cumbria  
CA28 8YD  
[licensing3@cumberland.gov.uk](mailto:licensing3@cumberland.gov.uk)

Telephone: **0300 373 3730**

## **Power to take action against a taxi driver's licence**

- 4.9 Under section 61 Local Government (Miscellaneous Provisions) Act 1976, the Council may suspend or revoke or refuse to renew a Taxi Drivers' Licence on the following grounds –
- a) that the licensee has, since the date of the grant of the licence –
    - i. been convicted of an offence involving dishonesty, indecency or violence; or
    - ii. been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
      - (aa) been convicted of an immigration offence or required to pay an immigration penalty; or
  - b) any other reasonable cause.
- 4.10 The Council may suspend or revoke your licence with immediate effect where it is of the opinion that the interests of public safety require such a course of action under section 61(2B) Local Government (Miscellaneous Provisions) Act 1976. That power is delegated to an officer. As this is likely to be an urgent situation, you will be contacted by telephone, text or email where practicable and notified of the time the decision will be made and you will be given opportunity to make representations. The Council will accept written representations/submissions. If you do not avail yourself of that opportunity, the decision will be taken in your absence.
- 4.11 Failure to comply with any Hackney Carriage or private hire legislation, or other road traffic legislation is an offence, and you may be liable to prosecution. In addition (irrespective of whether you were prosecuted or convicted of the offence(s)), the Council may take action against your licence which may also result in your taxi drivers' licence being suspended or revoked.
- 4.12 If any information given by you on the application form for this licence proves to be false, or you fail to disclose any relevant information on your application form, the

licence may be revoked, and you may be prosecuted under s57(3) Local Government (Miscellaneous Provisions) Act 1976.

- 4.13 The Taxi Drivers Licence and badge remain the property of the Council.
- 4.14 In the event that you lose your licence or badge, or they are damaged or defaced, you must get a replacement on payment of a fee determined by the Council, and without reasonable excuse you cannot drive a Hackney Carriage or private hire vehicle until such a replacement is obtained.

## **Duration**

- 4.15 The drivers' licence expires 3 years (36 months) from the date of issue, unless an application was made for a licence for a year.

## **Renewal**

- 4.16 Any application for renewal must be made at least one month before the licence expires, this will allow enough time for your application to be dealt with before expiry. If you do not apply to renew your licence in time there may be a period when you will be unable to drive a Hackney Carriage or private hire vehicle, unless there are exceptional circumstances, which will be taken into account at the discretion of the Council. If the renewal application is not received before the expiry of your current licence, it will be treated as a new application rather than a renewal and you will have to provide all the information that is required for renewal application (e.g. a new DBS check, up-to-date medical etc), unless there are exceptional circumstances, which will be taken into account at the discretion of the Council.
- 4.17 Renewals are generally dealt with by Council officers under delegated powers, and can be processed quite quickly. However, if there have been any changes since the last grant of the licence (for example if you have been convicted or cautioned for any offence, received a fixed penalty notice, Community Protection Notice (CPN), Criminal Behaviour Order (CBO), been required to attend a speed awareness course or there have been a complaint or concerns about your behaviour, but this is not an exhaustive list) the renewal application may need to be considered by the regulatory sub-committee.
- 4.18 The renewal of the licence will be at the Council's discretion.

## **Applications**

- 4.19 All applications must be made on the Council's application form which is available to download from the Council's website or online application facility, where available.
- 4.20 An application will not be processed unless it is complete.

## Photographs

- 4.21 All applications must be accompanied by 2 passport standard and sized photographs of the applicant with the applicant's full name written in block capitals on the reverse or agree to have your photograph taken by the Council where the facility is available.

## Driving Licence

- 4.22 Applicants must have held a full DVLA driving licence for a Category B vehicle for a period of at least 1 year and must be at least 21 years old. Where an applicant (or an existing licensed driver) has been disqualified from driving for any period, as a result of a conviction, a Taxi Drivers' Licence will not be granted to that applicant until at least 3 years have elapsed following the end of the period of disqualification.
- 4.23 If an applicant does not hold a UK driving licence, an application can be made provided the applicant holds a Northern Ireland, European Economic Areas or a driving licence issued by a country which is defined as an "Exchangeable" driving licence, and has held that licence for at least 1 year at the date of application. Countries which issue licences recognised as exchangeable are currently Gibraltar, Jersey, Guernsey, Isle of Man, Australia, Barbados, British Virgin Islands, Canada, Falkland Islands, Faroe Islands, Hong Kong, Japan, Monaco, New Zealand, Republic of Korea, Singapore, South Africa, Switzerland, Zimbabwe (This list may alter as a result of changes to the legislation.).
- 4.24 The driving licence must be produced at the assessment appointment and consent to access DVLA records must be given. A copy or scan will be taken of the licence together with the application and all other relevant supporting documents.

## Immigration requirements

- 4.25 An applicant for a driver's licence must have the right to remain and work in the UK. This will be evidenced on application by the driver providing documentation which complies with the Home Office guidelines. At the time this policy was adopted those are detailed in Appendix 1 to the Home Office document *"Guidance for Licensing Authorities to prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales"*. The list of acceptable documents is also detailed on the Gov website <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>.
- 4.26 The original documents must be provided and brought to the Council offices by the applicant in person. They will then be inspected, verified and a record retained.
- 4.27 Where an applicant has a right to remain and work, that will be noted and this process will not be repeated on renewal.

- 4.28 However where there is a restriction to either of the rights, the required documentation must be provided each time the licence is renewed. In those cases a licence for a shorter period than the usual 3 years may be granted.
- 4.29 If at any time during the currency of a licence, the right to remain all work is lost, that licence will cease to have effect and the licensee must immediately notify the Council and return the licence and badge.

### **Tax Conditionality**

- 4.30 Existing licensees applying for the renewal of a licence must obtain their unique 9 character code from His Majesty's Revenue and Customs (HMRC) and provide this to the council. If this cannot be provided the application cannot proceed.
- 4.31 The council will advise new applicants of the need to register with HMRC for tax and must sign an acknowledgement that they have received this information.

### **Criminal Record Checks**

- 4.32 All applicants (new and on renewal) will be required to provide an enhanced Disclosure and Barring Service check with a check of both the Adult and Children Barred Lists, at their own expense, as part of the application process. This is conducted via the Council, but the DBS Certificate is sent to the applicant's home address.
- 4.33 All licensees will be required to subscribe to the DBS Update Service. We encourage applicants to subscribe to the update service at the earliest opportunity.
- 4.34 A DBS for a taxi driver must:
- Be enhanced;
  - Have the adults barred list checked;
  - Have the children's barred list checked;
  - Have the position stated as "taxi driver or private hire driver";
  - Have the workforce listed as "other workforce"; and
  - Must be less than 1 month old when submitted to the Council. This is only relevant if the applicant has not subscribed to the update service.
- 4.35 The application will then be considered in the light of the Council's Suitability Guidance (see section 3)
- 4.36 Applications from those who are non UK residents will be determined in accordance with government guidance which is currently; **Guidance for licensing authorities to prevent illegal working in the taxi and private hire sector in the UK: 21 June 2024 states** or any other guidance as may be published from time to time.
- 4.37 UK citizens who have lived outside the UK for more than 3 months at a time since the age of 18 must obtain and produce (at their expense) a certificate of good conduct

authenticated by the relevant embassy for each and every country in which they have resided for more than 3 months from the age of 18 until arrival in the UK. Such certificates must be less than 3 months old, and the Council will verify the authenticity of any documentation that is provided.

### **Driving Standards -**

4.38 In order to establish that an applicant reaches an acceptable driving standard, all applicants (both new and renewal) will be required to successfully undertake and pass an approved Driver Skills Assessment before a licence will be granted (unless the course has been passed in the last 3 years. Applicants must arrange and pay for this test themselves.

4.39 Any existing driver that cannot prove that they have completed a test to the same standard within the last 3 years must also successfully undertake such a test at their own expense before a licence will be renewed.

The driver skills assessment will assess the following:

- a) driving skills;
- b) knowledge and navigational skills
- c) English communication skills;
- d) Hackney carriage and private hire law licence conditions knowledge;
- e) safeguarding awareness (including sexual exploitation and county lines)
- f) disability awareness and wheelchair assessment

### **Medical Requirements**

4.40 Applicants are required to pass a medical examination (at their own expense) and provide a Council issued medical certificate completed by their own GP or a medical practitioner who must have full access to all of their medical records to meet PSV/HGV Group 2 (vocational licence) medical standards of fitness, as defined and updated by the Driver and Vehicle Licensing Agency.

4.41 An applicant can also provide a PSV/HGV Group 2 medical certificate which has been completed by their own GP or medical practitioner who must have full access to medical records. The medical certificate must have been issued within the previous four months.

4.42 Medical requirements are as follows: -

- Group 2 Medical certificate is required at the initial application;
- Medical self-declaration is required at each renewal until the age of 45
- At the age of 45 a full group 2 medical certificate is required and thereafter five years until the age of 65
- At age 65 a full group 2 medical certificate is required annually.



- The above apply unless a different timescale is specified by the GP or medical practitioner. This is in accordance with the DfT Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England.

Examples:

<b>Applicant</b>	<b>Type of Application (new/renewal)</b>	<b>Age</b>	<b>Medical Type Required</b>	<b>Frequency</b>
Applicant 1	New	27	Full group 2 at application	
	Renewal	30, 33, 36, 39, 42	Self declaration	Every 3 years
	Renewal	45 <sup>th</sup> birthday	Full group 2	Every 5 years
	Renewal	48	Self declaration	Every 3 years
	Medical required	50	Full group 2	Every 5 years
	Renewal	51	Self declaration	Every 3 years
	Renewal	54	Self declaration	Every 3 years
	Medical required	55	Full group 2	Every 5 years
	Renewal	57	Self declaration	Every 3 years
	Medical required	60	Full group 2	Every 5 years
	Renewal	63	Self declaration	Every 3 years
	Medical required	65 <sup>th</sup> birthday	Full group 2	Every year thereafter
Applicant 2	New	44	Full group 2 at application	
	Medical required	45 <sup>th</sup> birthday	Full group 2	Every 5 years
	Renewal	47	Self declaration	Every 3 years
	Renewal and medical required	50	Full group 2	Every 5 years
	Renewal	53	Self declaration	Every 3 years
	Medical required	55	Full group 2	Every 5 years
	Renewal	56	Self declaration	Every 3 years
	Renewal	59	Self declaration	Every 3 years
	Medical required	60	Full group 2	Every 5 years
	Renewal	62	Self declaration	Every 3 years
	Medical required	65 <sup>th</sup> birthday	Full group 2	Every year thereafter
Existing licensee holder (as	Renewal	39	Full group 2	

at 1 <sup>st</sup> April 25)				
	Renewal	42	Self declaration	Every 3 years
	Medical required	45 <sup>th</sup> birthday (e.g. March)	Full group 2	Every 5 years
	Renewal	45 (e.g. October)	Self declaration	Every 3 years
	Renewal	48	Self declaration	Every 3 years
	Medical required	50	Full group 2	Every 5 years
	Renewal	51	Self declaration	Every 3 years
	Renewal	54	Self declaration	Every 3 years
	Medical required	55	Full group 2	Every 5 years
	Renewal	57	Self declaration	Every 3 years
	Renewal	60	Full group 2	Every 5 years
	Renewal	63	Self declaration	Every 3 years
	Medical required	65 <sup>th</sup> birthday	Full group 2	Every year

4.43 The Council reserves the right to seek a second opinion (at the expense of the applicant) in any case where it has any concerns about the medical fitness of an applicant, on application.

### **Test of Safety and Suitability/Fitness and Propriety**

4.44 In accordance with the DfT Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England and to enable the Council to make a decision as to whether or not an applicant is safe and suitable to hold a drivers licence, the following test will be used:

“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?”

### **Drivers Licence and Badges**

4.45 Successful applicants will be issued with their licence and badge.

4.46 This must be worn or be on display by the driver and shown to the operator or Hackney Carriage proprietor (as applicable) in accordance with the code of conduct.

### **Equality Act Exemption Certificates**

4.47 Taxi drivers must carry assistance dogs, carry disabled people and provide mobility assistance to them, and, when driving a listed wheelchair accessible vehicle, provide mobility assistance to wheelchair-bound passengers (detailed below).

- 4.48 Applications can be made to the Council for exemption from the assistance dogs requirements under sections 169 and 171 of the Equality Act 2010. Similar applications for exemptions from the requirement to provide mobility assistance can be made under section 166 of the Equality Act 2010.
- 4.49 Application forms are available on the Council's website at [www.cumberland.gov.uk](http://www.cumberland.gov.uk) together with details of the criteria that will be used to determine whether or not any such exemption certificate should be issued, and if so on what terms.
- 4.50 Exemption certificates will only last until the driver is required to provide their next general medical certificate. This means that an exemption certificate will last for a maximum of 3 years or as specified by the GP or medical practitioner, but if it is being granted subsequent to the last medical, it will not run beyond the renewal date for the general medical certificate.

### **Seat belts**

- 4.51 The law relating to seat belts as it applies to drivers and passengers in Hackney carriages and private hire vehicles is different from non-licensed passenger vehicles.
- 4.52 When driving a Hackney carriage, the driver does not need to wear a seatbelt when seeking hire (plying), answering a call for hire (travelling to a pre-booked hiring) or when a commercial or fare paying passenger is being carried (this does not apply to the vehicle if being used for private/domestic use). However Cumberland Council strongly advises that a seatbelt should be worn by drivers of Hackney carriages at all times.
- 4.53 When driving a private hire vehicle, the driver does not need to wear a seatbelt when a commercial or fare paying passenger is being carried (this does not apply to the vehicle if being used for private/domestic use). However Cumberland Council strongly advises that a seatbelt should be worn by drivers of private hire vehicles at all times.
- 4.54 In relation to commercial or fare paying passengers in Hackney carriages and private hire vehicles the rules relating to seat belts can be found in the highway code.
- 4.55 Children can be carried lawfully in Hackney carriages and private hire vehicles without the correctly sized child restraints. In these circumstances, the driver must make the parents, carers or other responsible adults accompanying the children aware of the potential dangers of carrying children who are not correctly restrained in motor vehicles. It will remain the parents, carers or other responsible adults decision as to whether they are prepared to accept those risks.

## **SANCTIONS AGAINST BREACHES OF THE CODE OF CONDUCT AND FOR ACQUIRING DRIVING LICENCE POINTS**

- 4.56 Where a driver acquires 7 or more penalty points on their DVLA licence, or who breaches any Legislation, Byelaw or requirement of the Code of Conduct, they may be referred to the Regulatory Sub-Committee.
- 4.57 The Council also runs its own Penalty Points Scheme as a method of enforcing the requirements for taxi drivers (see section 2 for full details).
- 4.58 When a driver is brought before the Regulatory Sub-Committee for whatever reason, the Regulatory Sub-Committee will decide each case on its merits, after hearing the facts.
- 4.59 The Regulatory Sub-Committee or officers with delegated authority may also suspend or revoke the driver's licence or impose further penalty points. Suspension or revocation of your licence can be with immediate effect where the Council is of the opinion that the interests of public safety require such a course of action. (Section 61(2B) Local Government (Miscellaneous Provisions) Act 1976).
- 4.60 It must be understood that a decision to grant you a licence was made on the basis that you were a safe and suitable person to drive a Hackney Carriage and private hire vehicle on the particular facts of the case on the day of the decision. That status can be lost at any time in the future and you must ensure that your behaviour remains of the highest standard to protect your drivers' licence and therefore your livelihood.

## **Byelaws**

- 4.61 Insert the councils byelaws (if any)  
(to be reviewed and implemented at a later date)

## **Taxi Drivers' Code of Conduct**

- 4.62 This Code of Conduct relates to you as a licensed taxi driver. It outlines the standards of behaviour which are expected of you whilst you hold a taxi driver's licence. Failure to comply with these requirements may lead to enforcement action being taken. This could be by way of penalty points attached to your taxi driver's licence, suspension, revocation or refusal to renew your licence.
- 4.63 You are a licensed taxi driver for the duration of the licence, and at all times you should ensure that your conduct and behaviour is that of a safe and suitable person. You must ensure that you do not act in any way, at any time, that might affect that. The Council will consider all your behaviour, and that is not limited to the times when you are driving a hackney carriage or private hire vehicle.
- 4.64 When you are driving a hackney carriage or private hire vehicle, that remains a Council licensed vehicle and you remain a Council licensed taxi driver wherever you may be located, and for whatever purpose you are using the vehicle (this includes social and domestic use). This Code of Conduct applies across the whole of the United Kingdom.

## Your taxi drivers Licence and Badge

- 4.65 You have been issued with a drivers badge. You must wear the drivers badge provided at all times when you are driving or working with a private hire vehicle or Hackney carriage and failure to do so is a criminal offence [under s54 of the 1976 Act when using a private hire vehicle and byelaw No **insert relevant byelaw number when implemented** when using a Hackney Carriage].
- 4.66 You must return your licence and badge to the Licensing Section of the Council **within 72 hours** if
- a) You change your home or business address
  - b) the licence expires, is suspended, revoked
  - c) you lose the right to work in the UK, or the right to remain in the UK
  - d) You wish to surrender your Taxi Driver Licence
  - e) required to do so by an “Authorised Officer of the Council”.
- 4.67 In the event of the loss of your licence or badge you must report the loss to the Council’s Licensing Section immediately, in writing.

## Production of Documents

- 4.68 If an Authorised Officer of the Council, an Authorised Officer of another Council with which the Council has a reciprocal arrangement or a police constable or PCSO asks you, you must produce:
- a) Your DVLA driving licence
  - b) Your Taxi Driver Licence
  - c) The vehicle registration document
  - d) A valid certificate of insurance

within **five days** of the request being made at the location that they specify.

## Medical condition

- 4.69 You must notify the Council, in writing within 14 days of any change in your medical condition that may adversely affect your ability to drive private hire or Hackney Carriage vehicles.
- 4.70 You must ensure that when you are working you are sober and not under the influence of any illegal drugs. If you are taking any prescription medication, you must ensure that it does not impair your driving ability.
- 4.71 If at any time you feel unwell you must discontinue work until such time as you feel better and able to return to work.

## **Declaration of conviction / caution / penalty**

- 4.72 You must declare all convictions, cautions, fixed penalty notices, CBO's (Criminal Behaviour Orders) CPNs (Community Protection Notices), requirements to attend a speed awareness course, injunctions, restraining orders or any other form of sanction or restriction to the Council on your initial application form.
- 4.73 If you are convicted of any offence, or accept a formal caution for an offence, or receive a fixed penalty notice for any offence or receive and accept an endorsable fixed penalty notice, or are made the subject of an CBO or CPN, are required to attend a speed awareness course, are made the subject of any injunction or restraining order, or you are arrested for any matter, or you are subject to any other form of sanction or restriction you must give the Council details, in writing and within **72 hours** of the event.

## **Driving**

- 4.74 You must comply with all road traffic regulations at all times.
- 4.75 You must comply with all legislation and conditions relating to the Hackney Carriage or private hire vehicle that you are driving at all times. Those conditions are available on the Council's website.
- 4.76 You must not use a hand-held mobile telephone or any other handheld device (apart from a two-way radio) whilst driving. In addition, you must not use any non-handheld device unless it is entirely voice activated.
- 4.77 You must not sound your vehicle horn –
- a) unnecessarily, i.e. unless in an emergency or to let other road users or pedestrians know you are there
  - b) when your vehicle is stationary on a road, at any time, other than at times of danger due to another moving vehicle on or near the road
  - c) on any road in a built up area between 11.30 p.m. and 7.00 am.
- 4.78 Your vehicle horn must not be used to signal your arrival to collect any pre-booked passenger.
- 4.79 You must not drive any Hackney Carriage or private hire vehicle in a dangerous or inconsiderate manner and in addition to complying with all road traffic regulations you must ensure that your driving and behaviour on the road is of the highest standard.
- 4.80 When parking, or otherwise waiting for either a hiring (Hackney Carriage), a booking to be communicated to you (private hire and Hackney Carriage) or attending for a pre-booked hiring (private hire and Hackney Carriage) you must ensure that you do not obstruct other road users including pedestrians on pavements and in pedestrianised streets. You must also ensure that you do not block vehicle entrances or any

emergency exits for buildings. You must also comply with parking and waiting restrictions (if any).

- 4.81 When stopping to set passengers down you must do so in a manner which minimises the risk to those passengers as they alight from the vehicle. You must warn passengers clearly of any unusual or unexpected dangers within the vicinity. Ideally passengers should alight on the curb side.
- 4.82 When driving a Hackney Carriage, you must not demand a fare greater than that shown on the meter for a journey within the Council's area. Where a journey ends outside the Council's area, you must not demand a fare greater than that shown on the meter unless an agreement was made between yourself and the hirer before the hiring commenced.
- 4.83 When driving a private hire vehicle you must not demand a fare greater than that shown on the taxi meter or fare calculator (if that is how your operator calculates fares) or as agreed between the hirer and the operator.
- 4.84 You must not leave the vehicles engine running unnecessarily whilst that vehicle is stationary on a public road.
- 4.85 It is a criminal offence to hold and use a mobile phone or other handheld device whilst driving. In addition this will be regarded as a serious breach of the Code of Conduct.

## **Data protection**

- 4.86 You must ensure that you have the correct safeguards for storing personal data that comply with the Data Protection Act 2018 and the General Data Protection Regulations (GDPR). This will include details of hirers (pre-booked Hackney Carriages) and also any dash cam footage (the use of dash cams is considered in relation to vehicle licences).

## **Conduct and Behaviour**

- 4.87 You must be honest and trustworthy at all times.
- 4.88 You must be polite and courteous to your passengers, other road users and the public generally. You must treat everybody decently, equally and fairly.
- 4.89 You must not discriminate against any person because of their race, colour, creed, age, gender, sexuality, or disability.
- 4.90 You must not use abusive, racist, sexist, or any other offensive language or terms with passengers or other members of the public (remember that not everybody shares your sense of humour, or views).
- 4.91 You must not use aggressive language or behaviour, or engage in any violent conduct.

- 4.92 You must not use abusive or foul language, spit or smoke (including the use of vapes) in or near the vicinity of your vehicle.
- 4.93 You must not carry any form of weapon on your person or in your vehicle at any time and under no circumstances must you ever take the law into your own hands.
- 4.94 You must behave in a civil and reasonable manner at all times and must comply with any reasonable request made by the hirer.
- 4.95 You must not engage in any kind of sexual activity within or in the vicinity of your licensed vehicle. No sexual contact with passengers at any time or place.
- 4.96 You must at all times treat passengers, any potential passenger, members of the public, Police Officers and PCSOs, Council officers and all other public servants (NHS staff, fire fighters, HMRC staff etc) with courtesy and respect.
- 4.97 You must protect passengers and yourself. Be wary about entering any premises, especially domestic premises unless you know the person as an established customer. Even then make sure that you take all steps to minimise any risk to yourself or your reputation.
- 4.98 In the course of your work as a driver you must not obtain the telephone numbers of, or engage on any form of social media with anybody under the age of 18, this excludes family and friends and does not include information provided at the time of booking.
- 4.99 You must always pick up your passengers on time unless unavoidably delayed.
- 4.100 You must not cause or allow noise emitted by any radio or sound equipment in the vehicle which you are driving to be a source of nuisance or annoyance to any person or persons, whether inside or outside the vehicle.
- 4.101 If a passenger objects, you must not play any radio or sound reproducing instrument or equipment in the vehicle.
- 4.102 You must always assist your passengers with their luggage, if driving a listed wheelchair accessible vehicle, otherwise you should assist with reasonable requests. If they do not request this, you must ask whether they need help. This includes picking it up from the point of booking, removing it from your vehicle at the end of the journey and setting it down.
- 4.103 You must maintain an incident book/logbook in which to record any incidents that you feel are of concern (including but not limited to concerns about child abuse, abuse of any other person, people trafficking, drug carrying, violence or criminal behaviour) or which may result in a complaint being made about you. Such incidents must be recorded promptly with as much detail as possible (date, time, location, nature of the



incident, names of the parties (if known) and identifying features). This incident book/logbook must be kept securely in the vehicle and the details must be transferred to a storage medium which is not contained within the vehicle (i.e. a copy of the pages stored on a computer) as soon as possible. When you are driving a private hire vehicle all such incidents must be reported to your operator as soon as possible. If you are driving a Hackney Carriage that has been booked via a booking agent, all such incidents must be reported to that agent as soon as possible. Where you suspect that the incident involves criminal behaviour you must report this to the police and Council immediately. The incident book/logbook can be an electronic device or a notebook.

- 4.104 You must maintain an incident book/logbook of any complaints that are made to you as a driver. All complaints must be recorded promptly with as much detail as possible (date, time, location, nature of the complaint, names of the parties (if known) and identifying features). This incident book/logbook must be kept securely in the vehicle and the details must be transferred to a storage medium which is not contained within the vehicle (i.e. a copy of the pages stored on a computer) as soon as possible. When you are driving a private hire vehicle all such complaints must be reported to your operator as soon as possible. If you are driving a Hackney Carriage that has been booked via a booking agent, all such complaints must be reported to that agent as soon as possible. The incident book/logbook can be an electronic device or a notebook.
- 4.105 If the hirer requests, you must provide a written receipt for the fare paid for the hiring, including the amount of VAT (if applicable) shown separately if so requested. That receipt must also contain details of the journey including the date, pick up point and destination, vehicle licence number, operators name and driver name or licence number. You must then sign the receipt. A digital receipt can also be issued if available.

## **Personal Appearance and dress code**

- 4.106 You must maintain good standards of personal hygiene at all times.
- 4.107 You must always be clean and respectable in your dress and present a professional image.

### **Acceptable standards of dress**

- All clothing must be clean, of smart appearance and in good condition.

## **Use of the Vehicle**

- 4.108 Private hire vehicles and Hackney Carriages are smoke free vehicles at all times under the Health Act 2006. It is a criminal offence to smoke in a private hire vehicle at any time (section 7) or to allow a person to smoke in a private hire vehicle (section 8) and

you can be prosecuted for either or both offences. In addition this will be regarded as a serious breach of the Code of Conduct

- 4.109 Animals must not be carried in private hire vehicles or Hackney Carriages other than those belonging to or in the care of passengers. You may refuse to carry a hirer's animal at your discretion. However, you must not refuse to carry an assistance dog, unless you have a valid Exemption Certificate issued by the Council. Any animal must be kept under the hirer's control, and must be carried in the rear of the vehicle (except assistance dogs). No animals can be carried in the luggage compartment of a saloon car.
- 4.110 You must not carry more passengers than the maximum number prescribed by the conditions attached to the Hackney Carriage or private hire vehicle licence and displayed on the vehicle plate.
- 4.111 You should carry a reasonable amount of luggage and provide assistance in loading it and unloading it from the vehicle.
- 4.112 You must not carry any additional passengers not already accompanying the hirer in the vehicle without the hirer's permission.
- 4.113 You must not carry more than one person in the front seat unless the vehicle is furnished with manufacturer fitted seats for more than one passenger in the front of the vehicle and provided with seat belts for all front seat passengers. In this case no more than 2 passengers may be carried.
- 4.114 You must not carry any child below the age of eleven years in the front of the vehicle.
- 4.115 Hackney Carriages and private hire vehicles are not expected to carry a range of child seats. If you are carrying children under the age of 14 you must make any adult with responsibility for the child aware that the correct restraints may not be available and the carriage of the child in those circumstances is at the adults own risk. Children under 3 years of age can travel unrestrained in a Hackney Carriage or private hire vehicle if the appropriate restraint is not available. Children over 3 years of age and below 11 years of age or shorter than 135cms (approx. 4ft 6in) can use adult seat belts if the appropriate restraint is not available. Children over 11 years of age or taller than 135cm (approx. 4ft 6in) must use adult seat belts.

## **Vehicle Checks**

- 4.116 It is your responsibility to ensure that the correct policy of insurance is in force for any Hackney Carriage or private hire vehicle that you are driving.
- 4.117 Before using a Hackney Carriage or private hire vehicle for the first time each day, you must undertake a "walk around check". This requires that you ensure that the vehicle is roadworthy and fit for use as a hackney carriage or private hire vehicle. The check

must include the tyres (pressure and tread depth), checking the lights are functioning (so far as is possible with one person – all lights except brake lights), checking all glass (lights and windows) is intact and ensuring there is no obvious damage to the vehicle. Any defects that are detected must be rectified before the vehicle is used to carry passengers.

- 4.118 Every time you commence driving the vehicle you must ensure that the front and rear identification plate, supplied by the Council, is securely fixed to the outermost rear of the vehicle, so that it can be clearly read by pedestrians and other road users. You must also ensure that any other identifying information (whether supplied by the Council or not) is correctly and securely attached to the vehicle.
- 4.119 If you have been issued a certificate of exemption from carrying assistance dogs or providing wheelchair assistance you must ensure that that notice is carried and available for inspection by passengers and authorised officers at all times.
- 4.120 You must not offer or accept any hire of the vehicle except where the hiring has been pre-booked via your Private Hire Operator [does not apply to Hackney carriages].

## **Lost Property**

- 4.121 After every hiring, you must search the vehicle for any misplaced or lost property.

If any property is found or handed to you, you must, if claimed and following agreement with the owner agree to return the property personally to the owner, and charge the metered fare to an agreed meeting point, or £10.00, whichever shall be greater [OR make reasonable efforts to find the owner and make arrangements to return it to them]. If you are a private hire driver you can take it your operators' office.

## **Taximeters in Private Hire Vehicles [taximeter use in hackney carriages is governed by the byelaws]**

- 4.122 You may use a meter in the private hire vehicle only if it is constructed, attached and maintained in compliance with the Private Hire Vehicle Licence Conditions.
- 4.123 Unless the fare is agreed in advance, you must switch the meter on at the point the hirer's journey commences and keep the meter working until the termination of the hiring.
- 4.124 You must not cancel or conceal the fare recorded until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless a lesser fare has been agreed).
- 4.125 You must ensure that the fare charged does not exceed the fare displayed on the meter at the end of the journey.

- 4.126 You must ensure that when the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter must show no fare at any time.
- 4.127 You must ensure that the meter is sufficiently illuminated when in use and is visible to passengers.
- 4.128 You must not (nor may you allow anyone else) to tamper with the meter or any seal on the meter without lawful excuse, or alter any meter with the intent to mislead.

### **Plying for hire when driving a private hire vehicle [does not apply when driving a hackney carriage]**

- 4.129 You must not pick up passengers who have not pre-booked with your operator.
- 4.130 You must not offer or accept an offer for the immediate hire of a vehicle while it is being used in a public place.
- 4.131 You must not park or wait on or near any Hackney Carriage Rank, or drop passengers off on a Hackney Carriage Rank.
- 4.132 You must not ply for hire on private land, if the vehicle can be seen from the street (public place) and could attract custom from members of the public.

### **Fares when a hackney carriage is used for pre-booked work**

- 4.133 A Hackney Carriage can be used for pre-booked work both within the District of Cumberland and elsewhere. When the journey is wholly within the District, or commences or ends in Cumberland, the fare charged cannot be greater than that displayed on the meter or in accordance with the table of fares. Where a pre-booked journey commences and ends outside Cumberland the table of fares and the meter do not control the maximum fare that can be charged. In these circumstances the fare to be charged must be negotiated between the hirer and the driver or booking agent unless otherwise agreed before the hiring was commenced.

## **LEGAL REQUIREMENTS when driving a Hackney carriage**

### **Your taxi Driver Licence and Badge**

- 4.134 When driving a Hackney Carriage you must wear your badge at all times whilst you are working as a Hackney Carriage Driver and you commit a criminal offence if you do not do so, for which you might be prosecuted.

### **Disability Discrimination**

4.135 When driving a Hackney Carriage you must carry an assistance dog and allow it to remain with their owner unless you have a certificate of exemption issued by the Council. You must not make any additional charge for doing so. When you are carrying an assistance dog you must allow it to be carried wherever the owner requires i.e. you cannot insist on the dog being separated from the owner or the owner and dog sitting in a particular seat (Section 168 Equality Act 2010).

4.136 When you are driving a Hackney Carriage that has been designated as a wheelchair accessible vehicle in a list maintained by the Council under section 167 of the Equality Act 2010, you must comply with the duties and provide mobility assistance to any passenger in a wheelchair as detailed in section 165 of the Equality Act 2010.

4.136.1 The duties are—

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

4.136.2 And mobility assistance is assistance—

- a) to enable the passenger to get into or out of the vehicle;
- b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- c) to load the passenger's luggage into or out of the vehicle;
- d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

4.137 When you are driving any Hackney Carriage, you must comply with the duties to carry and provide mobility assistance to any disabled passenger as detailed in section 164A of the Equality Act 2010.

4.137.1 The duties are—

- (a) to carry the passenger;
- (b) if the passenger is in or has with them a wheelchair, to carry the wheelchair;
- (c) if the passenger has with them any mobility aids, to carry the mobility aids (any item the passenger uses to assist with their mobility);
- (d) to take such steps as are reasonable to ensure that the passenger is carried in safety and reasonable comfort;
- (e) to give the passenger such mobility assistance as is reasonably required;
- (f) not to make, or propose to make, any additional charge for complying with a duty mentioned in paragraphs (a) to (e).

4.137.2 And mobility assistance is assistance—

- (a) to enable the passenger to get into or out of the vehicle;
- (b) to load the passenger's luggage, wheelchair or mobility aids into or out of the vehicle.

4.138 In vehicles equipped with a taxi meter, the meter must not be activated until the wheelchair bound passenger has been properly loaded and secured for the journey, all loading ramps or other equipment have been properly stowed and the vehicle is ready to commence the journey. The same applies for any disabled passenger, and the meter must not be activated until any mobility equipment has been properly stowed and the vehicle is ready to commence the journey. At the end of the journey the meter must be stopped before any unloading activity commences.

## **Conduct**

4.139 You must not drive a Hackney Carriage at any time if you do not hold a taxi driver's licence, or if your licence has been suspended (section 47 Town Police Clauses Act 1847).

4.140 You must not lend your taxi drivers licence to anybody else (section 47 Town Police Clauses Act 1847).

4.141 When driving a Hackney Carriage you must accept a hiring from a Hackney Carriage Rank (taxi rank) or when you are stationary on the highway for a journey within the Council's area unless you have a "reasonable excuse" to refuse (section 53 Town Police Clauses Act 1847).

4.142 When driving a Hackney Carriage if you agree to charge a fare lower than that shown on the meter for a journey in a Hackney Carriage then you cannot charge more than that agreed fare (section 54 Town Police Clauses Act 1847).

4.143 When driving a Hackney Carriage you must not charge more than the fare shown on the meter of a Hackney Carriage for a journey wholly within the Council's area, irrespective of how the journey was arranged (s55 Town Police Clauses Act 1847).

4.144 When driving a Hackney Carriage if you have been hired and are asked to wait, and either a deposit has been paid or the meter is running, you must wait until that hirer returns to your Hackney Carriage (section 57 Town Police Clauses Act 1847).

4.145 When driving a Hackney Carriage you must not charge more than the fare shown on the meter for a journey within the District (section 58 Town Police Clauses Act 1847).

4.146 When driving a Hackney Carriage you must not carry anyone apart from the hirer and their companions without the express consent of that hirer (section 59 Town Police Clauses Act 1847).

- 4.147 You must not drive any Hackney Carriage without the consent of the Hackney Carriage proprietor (if that is not yourself) (section 60 Town Police Clauses Act 1847).
- 4.148 You must not leave a Hackney Carriage unattended at a Hackney Carriage Rank (section 62 Town Police Clauses Act 1847).
- 4.149 You must not prevent any other driver of a Hackney Carriage from taking a fare, or obstruct them in picking up or sitting down passengers (section 62 Town Police Clauses Act 1847).
- 4.150 When driving a Hackney Carriage you must produce your taxi drivers licence if requested to do so by an Authorised Officer of the Council (or another Council with whom a reciprocal arrangement exists) or any police constable (s53(3) Local Government (Miscellaneous Provisions) Act 1976).
- 4.151 You must return your drivers licence to the Council within 7 days if you lose the right to remain or work in the UK (s53A(9) Local Government (Miscellaneous Provisions) Act 1976).
- 4.152 You must not make any false statement or withhold any information when applying to renew your taxi drivers licence (s57(3) Local Government (Miscellaneous Provisions) Act 1976).
- 4.153 You must return your licence, drivers badge(s) to the Council within 14 days of any suspension, revocation or refusal to renew your licence (s61(3) Local Government (Miscellaneous Provisions) Act 1976).
- 4.154 When driving a Hackney Carriage you must not charge more than the fare shown on the meter of a Hackney Carriage for a journey that ends outside the Council's area unless a different fare was agreed in advance (s66 Local Government (Miscellaneous Provisions) Act 1976)
- 4.155 When driving a Hackney Carriage you must not charge more than the metered fare for a pre-booked journey which is wholly within, or starts or finishes within the Council's area. (s66 Local Government (Miscellaneous Provisions) Act 1976).
- 4.156 You must use the shortest available reasonable route for all journeys by Hackney Carriage, subject to any directions given by the hirer. (Section 69 Local Government (Miscellaneous Provisions) Act 1976).
- 4.157 You must not tamper with any seal on a taximeter, or alter the taximeter with any intent to mislead (s71 Local Government (Miscellaneous Provisions) Act 1976).
- 4.158 You must not obstruct, fail to comply with any requirement made by, or fail to give any information to, an Authorised Officer of the Council, an Authorised Officer of another

Council with which there is a reciprocal enforcement arrangement, or a police constable (s73 Local Government (Miscellaneous Provisions) Act 1976).

- 4.159 When driving a Hackney Carriage you must not conceal or obscure the number of the Hackney Carriage whilst standing or plying for hire, or use any vehicle where any part of the plate is illegible.
- 4.160 When driving a Hackney Carriage you must not activate the taximeter when standing or plying for hire, but you must activate the meter before the journey commences but not until passengers are properly seated and secured. At the end of the journey you must stop the meter. This should be before passengers alight from the vehicle.
- 4.161 When driving a Hackney Carriage and you are plying for hire you must proceed to a Hackney Carriage Rank and if that Rank is full, proceed to another Rank. When you arrive at a Rank that is not full you must position the vehicle behind the rearmost vehicle on the Rank and move forward as space becomes available.
- 4.162 You must not use the services of any other person to importune (encourage forcefully) anyone to hire your Hackney Carriage.
- 4.163 When driving a Hackney Carriage you must behave in a civil and orderly manner and take all reasonable precautions to ensure the safety of persons entering, carried in or alighting from the Hackney Carriage.
- 4.164 When driving a Hackney Carriage if you have been pre-booked you must attend at the appointed time and place.
- 4.165 When driving a Hackney Carriage you must not carry more passengers in the Hackney Carriage than the conditions attached to the vehicle licence permit.
- 4.166 When driving a Hackney Carriage you must carry a reasonable quantity of luggage for the hirer and assist them in loading and unloading, including taking it from or to any building where reasonable.
- 4.167 When driving a Hackney Carriage you must search the vehicle for lost property after every hiring.

## **LEGAL REQUIREMENTS when driving a private hire vehicle**

### **Your taxi Driver Licence and Badge**

- 4.168 When driving a private hire vehicle you must wear your badge at all times whilst you are working as a private hire driver and you commit a criminal offence if you do not do so, for which you might be prosecuted (s54 Local Government (Miscellaneous Provisions) Act 1976).



## Disability Discrimination

4.169 When your operator has accepted a booking for a passenger with an assistance dog (whether or not the existence of the dog has been communicated to you), you must carry that assistance dog and allow it to remain with their owner unless you have a certificate of exemption issued by the Council. When you are carrying an assistance dog you must allow it to be carried wherever the owner requires i.e. you cannot insist on the dog being separated from the owner or the owner and dog sitting in a particular seat (Section 170 Equality Act 2010).

4.170 When you are driving a private hire vehicle that has been designated as a wheelchair accessible vehicle in a list maintained by the Council under section 167 of the Equality Act 2010, you must comply with the duties and provide mobility assistance to any passenger in a wheelchair as detailed in section 165 of the Equality Act 2010.

4.170.1 The duties are—

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

4.170.2 And mobility assistance is assistance—

- a) to enable the passenger to get into or out of the vehicle;
- b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- c) to load the passenger's luggage into or out of the vehicle;
- d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

4.171 When you are driving any private hire vehicle, you must comply with the duties to carry and provide mobility assistance to any disabled passenger as detailed in section 164A of the Equality Act 2010.

4.171.1 The duties are—

- a) to carry the passenger;
- b) if the passenger is in or has with them a wheelchair, to carry the wheelchair;
- c) if the passenger has with them any mobility aids, to carry the mobility aids (any item the passenger uses to assist with their mobility);
- d) to take such steps as are reasonable to ensure that the passenger is carried in safety and reasonable comfort;
- e) to give the passenger such mobility assistance as is reasonably required;

- f) not to make, or propose to make, any additional charge for complying with a duty mentioned in paragraphs (a) to (e).

4.171.2 And mobility assistance is assistance—

- (a) to enable the passenger to get into or out of the vehicle;
- (b) to load the passenger's luggage, wheelchair or mobility aids into or out of the vehicle.

4.172 In vehicles equipped with a taxi meter, the meter must not be activated until the wheelchair bound passenger has been properly loaded and secured for the journey, all loading ramps or other equipment have been properly stowed and the vehicle is ready to commence the journey. The same applies for any disabled passenger, and the meter must not be activated until any mobility equipment has been properly stowed and the vehicle is ready to commence the journey. At the end of the journey the meter must be stopped before any unloading activity commences.

4.173 You must not drive a private hire vehicle at any time when your private hire drivers' licence has been suspended (s46(1)(b) Local Government (Miscellaneous Provisions) Act 1976).

4.174 When driving a private hire vehicle you must produce your private hire drivers' licence if requested to do so by an Authorised Officer of the Council (or another Council with whom a reciprocal arrangement exists) or any police constable (s53(3) Local Government (Miscellaneous Provisions) Act 1976).

4.175 You must return your drivers licence to the Council within 7 days if you lose the right to remain or work in the UK (s53A(9) Local Government (Miscellaneous Provisions) Act 1976).

4.176 You must not make any false statement or withhold any information when applying to renew your drivers licence (s57(3) Local Government (Miscellaneous Provisions) Act 1976).

4.177 You must return your licence and drivers badge to the Council within 14 days of any suspension, revocation or refusal to renew your licence (s61(3) Local Government (Miscellaneous Provisions) Act 1976).

4.178 When driving a private hire vehicle you must use the shortest available reasonable route for all journeys by private hire vehicle, subject to any directions given by the hirer. (Section 69 Local Government (Miscellaneous Provisions) Act 1976).

4.179 You must not tamper with any seal on a taximeter also the taximeter with any intent to mislead (s71 Local Government (Miscellaneous Provisions) Act 1976).

4.180 You must not obstruct, fail to comply with any requirement made by, or fail to give any information to, an authorised officer of the Council, an authorised officer of another Council with which there is a reciprocal enforcement arrangement, or a police constable (s73 Local Government (Miscellaneous Provisions) Act 1976).

4.181 You must not drive any private hire vehicle with any roof sign or anything which would indicate the vehicle is a Hackney Carriage (section 64 Transport Act 1980).

## **Penalty Points Scheme**

4.182 Details of the Drivers Penalty Points Scheme (section 2)

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# Section 5

# HACKNEY CARRIAGE (VEHICLE) LICENCES

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**Town Police Clauses Act 1847**

**Local Government (Miscellaneous Provisions) Act 1976**

## **Implementation of policy**

**Vehicles** – Vehicles are licensed for 1 year. The current conditions across the 3 legacy councils are not changing significantly but will have a change of test criteria. The proposal for vehicles removes the upper age limit. The proposal is from 1 April 2025 that existing licensed vehicles meet the new criteria on renewal of licence. Vehicles first licensed will be required to meet the new conditions from 1 April 2025.

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This document contains the policy, byelaws, conditions and legislation relating to your hackney carriage (vehicle) licence. The legislation refers to hackney carriage licences, but as these are often referred to as hackney carriage vehicle licences, for the avoidance of doubt the term “hackney carriage (vehicle)” will be used throughout this policy.

As hackney carriage (vehicle) licences can be held by limited companies and partnerships as well as individuals, this policy must be read to give effect to that. Any reference to a “person”, “you”, “licensee” or “proprietor” is taken to mean the proprietor of the hackney carriage.

The Council has the power to make byelaws relating to hackney carriages under the legislation, and it has done so.

There is also a power to attach conditions to hackney carriage (vehicle) licences, and the Council has standard conditions which attach to these licences. These are contained within this document.

There is also a list of the main law and byelaws that apply to hackney carriage proprietors.

## **Introduction**

- 5.1 The purpose of licensing hackney carriage vehicles is to protect the public, including passengers and others who may otherwise be placed at risk from unlicensed and potentially dangerous vehicles.
- 5.2 It is a privilege to hold a hackney carriage vehicle licence and licensees have responsibilities to their drivers, passengers and customers, other road users and the public generally. The Council has been satisfied that when you applied for your licence vehicle it was suitable and safe for use as a hackney carriage and that you were a safe and suitable person to have that licence granted (please see section 3 for the Councils’ Suitability Guidance). In assessing that, the Council took into account the type of the vehicle, the condition of the vehicle and your entire character and behaviour.
- 5.3 As a vehicle proprietor this assessment of your character not only includes times when you are working within the hackney carriage trade, but at all other times as well. This can include your use of social media as well as other forms of communication. The requirement to satisfy the council that you are a safe and suitable person continues throughout the duration of the licence. If at any time the standard of the vehicle or your behaviour falls below the standards expected for new applications, the council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence. In relation to your personal actions, it is no defence to argue that your actions took place when you were not working within the hackney carriage trade. You should appreciate that under the Previous Convictions Policy, if the unacceptable or criminal behaviour took place whilst you were working within the hackney carriage trade, that will be viewed as an aggravating feature by the Council.
- 5.4 In many cases a hackney carriage is the first vehicle that a visitor to the area will encounter following arrival at an airport, railway station or bus station. As a consequence, the appearance of hackney carriages can affect a person for their entire visit. Hackney carriage proprietors should be aware of this and ensure that their vehicle is maintained to the highest standard at all times.
- 5.5 Please note, this section reminds you of some of the important legal requirements with which you must comply. This is not a comprehensive list. You should familiarise

yourself with the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976 and all other relevant legislation.

- 5.6 The Council has decided to attach conditions to Hackney Carriage Licences that it considers reasonably necessary under the powers contained in section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976. The conditions are in addition to the statutory requirements of the legislation. Section 47(3) of the 1976 Act gives the right of appeal to the Magistrates' Court to any person aggrieved by any of the conditions attached to their licence within twenty-one days of receipt of the licence.
- 5.7 You must understand and comply with the legal requirements relating to the Hackney Carriage licensed in your name, a limited company in which you are a director or secretary, a limited liability partnership in which you are a partner, or in joint names when you are one of the named individuals. Failure to comply with the requirements may result in your hackney carriage vehicle licence being suspended or revoked.
- 5.8 The Council office for hackney carriage and private hire licensing purposes is The Licensing Section:

Cumberland Council  
Allerdale House  
New Bridge Road  
Workington  
Cumbria  
CA14 3YJ  
[licensing1@cumberland.gov.uk](mailto:licensing1@cumberland.gov.uk)

Cumberland Council  
Civic Centre  
Rickergate  
Carlisle  
Cumbria  
CA3 8QG  
[licensing2@cumberland.gov.uk](mailto:licensing2@cumberland.gov.uk)

Cumberland Council  
Whitehaven Commercial Park  
Moresby Parks  
Whitehaven  
Cumbria  
CA28 8YD  
[licensing3@cumberland.gov.uk](mailto:licensing3@cumberland.gov.uk)

Telephone: **0300 373 3730**

## **SANCTIONS AGAINST THE HACKNEY CARRIAGE VEHICLE LICENCE.**

- 5.9 Where a proprietor breaches any Legislation, Byelaw or Condition of the licence, they may be referred to the Regulatory Sub-Committee.
- 5.10 The Council also runs its own Penalty Points Scheme as a method of enforcing the requirements for hackney carriage and private hire licensees (see section 2). Each year (running from 1<sup>st</sup> April to 31<sup>st</sup> March) a maximum of 12 Council penalty points can be accrued on a hackney carriage vehicle licence. Any proprietor who accrues 12 or more points will be brought before the Regulatory Sub-Committee where their safety and suitability to retain a hackney carriage vehicle licence will be considered.
- 5.11 Whenever, and in what circumstances a proprietor is brought before the Regulatory Sub-Committee, the Sub-Committee will decide each case on its merits, after reading and hearing the evidence and, if necessary, making findings of fact.
- 5.12 The Regulatory Sub-Committee may also suspend or revoke the hackney carriage vehicle licence (see below) or impose further penalty points.

### **Power to take action against a hackney carriage vehicle licence**

- 5.13 Under section 60 Local Government (Miscellaneous Provisions) Act 1976, the Council may suspend, revoke or refuse to renew a hackney carriage vehicle licence on the following grounds:
- a) that the hackney carriage vehicle is unfit for use as a hackney carriage;
  - b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
  - c) any other reasonable cause.
- 5.14 An authorised officer of the Council, an authorised officer of another Council where there is a reciprocal arrangement, or a police constable can immediately suspend a hackney carriage vehicle licence under S.68 Local Government (Miscellaneous Provisions) Act 1976 on the grounds of
- a) the vehicle is unfit
  - b) the taximeter is inaccurate
- 5.15 Failure to comply with any hackney carriage legislation (including byelaws), or other road traffic legislation is an offence and you may be liable to prosecution. In addition (irrespective of whether you were prosecuted or convicted of the offence(s)), the Council may take action against your licence which could lead to your hackney carriage vehicle licence being suspended revoked or the renewal refused.
- 5.16 Failure to comply with the Council's conditions may result in your Hackney Carriage Licence being suspended, revoked or the renewal refused.
- 5.17 If any information given by you on the application for this licence proves to be false, or you fail to disclose any relevant information on your application, the licence may be revoked, and you may also be prosecuted under s57(3) Local Government (Miscellaneous Provisions) Act 1976.

- 5.18 The hackney carriage vehicle licence remains the property of the Council.
- 5.19 In the event that you lose your proprietors licence, hackney carriage proprietors (vehicle) licence plates or additional signage, or if they are damaged or defaced, you must get a replacement licence or plates on payment of a fee determined by the Council, and you cannot use the hackney carriage until such replacements are obtained and fitted.
- 5.20 It must be understood that a decision to grant a hackney carriage vehicle licence is made on the basis of the condition and suitability of the vehicle and the suitability of the proprietor(s) on the particular facts of the case on the day of the decision. That suitability can be lost at any time in the future and you must ensure that the condition of your vehicle and your behaviour remains of the highest standard to protect your vehicle licence and therefore your livelihood.

## **Policy**

### **GENERAL (Including Specifications for a Hackney Carriage)**

#### **Applicants**

- 5.21 Hackney carriage vehicle licences can be held by individuals, limited liability partnerships (LLP), conventional partnerships (two or more people in business together) or limited companies. Usually the vehicle must be registered to one of those, but there will be occasions where the vehicle is leased or hired. In all cases the applicant(s) must demonstrate that they have ownership of the vehicle, a financial interest in the vehicle or permission to use the vehicle on an extended basis (in the case of a lease or hire). A V5 registration document is not proof of ownership and other documentation will be required. This can include, but is not limited to
- a) Receipt for the purchase of the vehicle
  - b) Lease/hire contract
  - c) Partnership agreement between 2 or more individuals

#### **Character of the applicant**

- 5.22 The licensee of a hackney carriage can exert control over those who drive that vehicle, and as a consequence it is essential that they satisfy the Council that they are a suitable person to hold a hackney carriage vehicle licence.
- 5.23 All applicants for a hackney carriage vehicle licence (new and on renewal) will be required to provide a Basic Disclosure and Barring Service check at their own expense, as part of the application process. Where a proprietor holds more than one vehicle licence, they will only be required to obtain one basic DBS certificate annually. The same will be required of all partners in a limited liability or conventional partnership and all directors and secretary of a limited company when the application is made, or the licence is held, by a limited liability or conventional



partnership or limited company. This does not apply if a proprietor is a licensed driver with the Council and already holds a valid enhanced DBS certificate and subscribes to the update service.

- 5.24 The application will then be considered in the light of the Council's Suitability Guidance (see section 3).
- 5.25 In addition, the Council will take into account the compliance and maintenance history of previous and existing vehicles licensed by the applicant. The Council does not regard licensees whose vehicles fail regular tests as being a safe and suitable person to have responsibility for hackney carriages. All vehicles must be maintained to a satisfactory standard all times and should pass any test at any point.
- 5.26 To enable the Council to make a decision as to whether or not an applicant is a suitable person to be granted or continue to hold a hackney carriage vehicle licence the following test will be used:

"Without any prejudice, and based on the information before you, would you be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?"

### **Convictions**

- 5.27 If you or anybody else with an interest in the vehicle or who is named on the licence is arrested in connection with, charged with or convicted of any criminal offence, that must be reported to the council within 72 hours (including weekends and bank holidays). The same requirement applies in relation to any fixed penalty notices, speed awareness courses, Community Protection Notices, civil injunctions or Criminal Behaviour Orders or other sanctions or restrictions that you receive, have to attend or that are imposed on you.

### **Vehicles**

- 5.28 It is the applicants responsibility to ensure that any vehicle presented for licensing as a hackney carriage meets the Council's criteria which are detailed below. As the Council will not be liable for any loss as a result of a vehicle not being licensed, it is vital that applicants ensure that any vehicle that they are considering purchasing meets these criteria.

### **Limits on the Numbers of Hackney Carriages**

- 5.29 There are no limits on the number of Hackney carriages that are licensed.

## **Licensed Vehicle Type, Age and Emissions**

5.30 Any vehicle submitted to be licensed as a hackney carriage must be of Category M1 (as shown on the registration document) unless either of the following apply:

- Category M2 or N1 vehicles (as shown on the registration document) will be acceptable provided the vehicle has passed an IVA (Individual Voluntary Approval) test and there is evidence to show that no modification to be made to that vehicle since the date of that test. It must be undertaken by a qualified engineer.
- Q registered vehicles are not accepted.
- Convertible vehicles will not be accepted.

5.31 Vehicles are constantly being improved by manufacturers, and improved standards are imposed by the Government. Newer vehicles are safer, less environmentally damaging and less likely to break down. Vehicles deteriorate due to a combination of age and use.

5.32 In order to reduce emissions it is important to set standards that are common to all within the hackney carriage fleet, to ensure consistency and a level playing field for proprietors. The age of vehicles and the exhaust emissions are critical to the level of pollutants emitted. Consequently, to improve air quality and reduce emissions from the hackney carriage fleet, the following standards will apply.

5.33 From 1<sup>st</sup> April 2025, new licences will not be granted in respect of vehicles that were first registered (or, in the case of imported vehicles, manufactured) more than 7 years prior to the date that the application was made. WAV's are exempt from this condition.

## **Low Emission Vehicles**

5.34 The Council aims to encourage the uptake of low emission vehicles in the district, and will examine the feasibility of introducing differential licensing fees for electric, hybrid and ultra-low emission vehicles.

## **Acquired rights**

5.35 If a vehicle has been continually licensed as a hackney carriage by Cumberland Council before 1<sup>st</sup> April 2025, and a renewal application is made before the expiry of that hackney carriage licence, then that vehicle can continue to be licensed, subject to it passing the required mechanical and other tests to assess suitability.

## **Vehicle specification**

5.36 There are 2 different types of vehicle that can be licensed as hackney carriages: those which are Wheelchair Accessible Vehicles (WAV) and those which are not.

- 5.37 At present, Cumberland Council does not require all hackney carriages to be WAV but this policy may be reviewed in the future.
- 5.38 The Council maintains a list of all WAV (both hackney carriages and private hire vehicles). Drivers of those vehicles must then provide mobility assistance to wheelchair-bound passengers.
- 5.39 The following specifications detail the minimum requirements for each type of vehicle, together with the requirements for all hackney carriages.

### **Non-Wheelchair accessible vehicles**

- 5.40 If the vehicle is to be licensed as a Non-WAV (saloons, estate cars, people carriers (MPV), sports utility vehicles (SUV) and any other vehicle that cannot carry a passenger whilst they remain in their wheelchair) it must be approved by the Council and comply with the following specification:
- a) Be a right-hand drive vehicle
  - b) Have at least four doors that can be opened from both inside and outside the vehicle. Each door (except the drivers door) must be capable of being opened by passengers.
  - c) Have a minimum seating capacity for at least four adult passengers based on a width of not less than 400 mm per person across the rear seat.
  - d) Must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger's luggage or any equipment. If that is not possible or practical then e. below will apply
  - e) Roof racks, towbars and trailers will be permitted. Any vehicle using a roof rack must be fitted with a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative, subject to the additional signage as detailed above.
  - f) Tow bars (if fitted) must be fitted in accordance with the manufacturers instructions.
  - g) Any trailer that is used must meet the following requirements and be tested by the Council (the charge to be paid by the licensee) and will be issued with a "trailer plate" which must be displayed on the rear of the trailer and clearly visible whenever the trailer is being used by the hackney carriage. The trailer can only be used on the specified Hackney carriage. Trailers must comply with the following standards.
    - i. A suitable lid or other approved means of enclosure must be fitted to secure the contents within the trailer whenever in use and keep the contents dry.

- ii. The trailer must at all times comply with all Road Traffic legislation requirements.
  - iii. The vehicle insurance must cover towing a trailer.
  - iv. Trailers must not be left unattended anywhere on the highway.
  - v. The speed restrictions applicable to trailers must be observed at all times.
  - vi. The registration number plate of the hackney carriage and the Council issued "trailer plate" must be attached to the rear of the trailer.
  - vii. The trailer must be inspected annually and must be considered to be satisfactory by the Licensing Authority.
  - viii. Only drivers with the appropriate DVLA driving licence category may drive a vehicle with a trailer. The vehicle proprietor must check any driver's DVLA licence for the required category, prior to allowing the use of a trailer.
- h) Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any division between the drivers and passenger compartments

#### **Additional requirements for minibus and MPV type vehicles**

- 5.41 In order to be licensed as a hackney carriage, any Minibus/MPV-type vehicles must be fitted, in addition to the front driver and passenger doors, with at least:
- a. one other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle
- OR
- b. two side loading doors that can be opened from the inside

#### **Wheelchair Accessible Vehicles (WAV)**

- 5.42 The vehicle must be a purpose built Hackney Carriage capable of carrying a wheelchair bound passenger which complies with the current Transport for London "Conditions of Fitness" or it meets the following specification.
- 5.43 Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle, must have, European Community Whole Vehicle Type Approval (ECWVTA), or Individual Vehicle Type Approval, including an inspection certificate issued by the Driver and Vehicle Standards Agency (DVSA) as a minimum standard.
- a) The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair itself.
  - b) The passenger compartment must have a minimum unobstructed available width of 0.74 metres (including at the point of entry).

- c) The passenger compartment must have a minimum unobstructed available length of 1.2 metres for a wheelchair and user.
- d) The passenger compartment must have a minimum unobstructed available height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.
- e) The passenger compartment must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- f) The passenger compartment must be fitted with a suitable 3-point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- g) The vehicle must have suitable ramps for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- h) Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.
- i) At least one door entrance must be designed and constructed to help elderly and disabled passengers get in and out of the vehicle. The door entrance and any steps must be conspicuously marked where appropriate, to help visually impaired passengers.
- j) All passenger door entrances must have grab handles or rails suitably located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.
- k) To assist elderly and disabled passengers, at least one passenger seat may be of a "swivel" or other design and construction, approved by the Council.

### **All vehicles**

5.44 The following are the minimum requirements for all hackney carriages, irrespective of their type:

- a) The vehicle must be wind and water-tight.
- b) The vehicle must have a floor properly covered with carpet or other suitable covering.
- c) The vehicle must have an adequate functioning internal light to enable passengers to enter and leave the vehicle safely.
- d) The vehicle's bodywork and paintwork must be in good condition and must be maintained to an acceptable standard, free from dents or other damage or rust.

- e) The vehicle must not be fitted with any additional external accident protection devices (e.g. bull bars or additional bumpers).
- f) The vehicle must carry a spare wheel and tyre of the correct size to fit the vehicle, together with equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, all of which must be securely stored. If the manufacturers specification when the vehicle was new did not include a spare wheel, the manufacturers alternative (e.g. spray can) will be acceptable.
- g) The vehicle must be fitted with tyres which meet the specifications detailed by the manufacturer in terms of size and speed rating. They must have at least 2 mm of tread across the entire contact surface.
- h) The vehicle must be fitted with nearside and offside exterior rear view mirrors.
- i) The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.
- j) All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt or, where that was not a manufacturers option when the vehicle was manufactured, a factory fitted lap belt. Any retrospectively fitted seat belts must be approved by the Council.
- k) The vehicle must be fitted with glass which complies with current Construction and Use Regulations (the Road Vehicles (Construction and Use) Regulations 1986 as amended). These regulations require that the front windscreen allows 75% of light to be transmitted and the front door windows allow 70% of light to be transmitted. In addition the remaining glass within the vehicle must have a minimum light transmittance of not less than 70%. The rear of the vehicle must be fitted with at least one window (or one window per rear door fitted), the light transmission capacity of which must be a minimum of 70%. No self-adhesive material (tinted or clear) can be affixed to any part of the glass without the approval of the council.
- l) The vehicle's power output must not be less than 100 bhp or 74.5 kw.
- m) The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council.
- n) The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and driver seats, and 0.84 metres in relation to any other passenger seats.
- o) The minimum unobstructed distance between the seat back and the footwell bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- p) The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding any armrests).

- q) Any vehicle that has been converted to run on liquid petroleum gas (LPG) must be accompanied by a certificate stating that the conversion was undertaken in accordance with the LPG gas Association's code of practice, and if the conversion was undertaken more than one month before the application for the licence, an annual installation check which is not more than one month old. This may be checked online if the information is available.

5.45 In addition, in all types of hackney carriage the following requirements must be met.

## **Seating**

5.46 In any vehicle all exits must be easily accessible. The seating configuration and number of passengers that can be carried is subject to assessment by the Council.

## **Documents**

5.47 A vehicle licence will only be issued where the vehicle has evidence of:

- a) A valid vehicle insurance certificate specifically stating that the vehicle is to be used for public hire/hackney carriage use.
- b) A valid MOT issued by an approved MOT test centre if older than 1 year.
- c) A V5 vehicle registration document. In case of a new vehicle the sales invoice which must show engine and chassis numbers, shall be produced at the time of application and the registration document when it is received from DVLA. The registration document must in all cases be produced within 6 weeks of the licence being issued.
- d) The complete service/maintenance history for the vehicle since the date of purchase.

5.48 Before or on the date of expiry of any certificate, the certificate about to expire must be produced together with the relevant renewal certificate to the Council.

5.49 Most documents will be accepted via email but originals must be provided if requested.

## **Engine/Chassis Numbers**

5.50 The Chassis/Vehicle Identification Number Plates and engine numbers must match the numbers recorded with the DVLA as detailed on the V5 Document. Vehicle applications cannot be accepted without a copy of the vehicle registration document, or in the case of new vehicle purchase, the sales documentation indicating the engine and chassis numbers. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police Vehicle Identification Section who may undertake checks to ensure the vehicle is not stolen. If the engine is changed at any time whilst the vehicle is a licensed hackney carriage, the Council must be notified within 72 hours of that change and the updated V5 must be produced as soon as it is received from DVLA.

## **Maintenance and servicing**

- 5.51 Vehicles must be maintained correctly and serviced in accordance with the manufacturers recommendations. The service history of the vehicle will be inspected at first application and on every renewal of the licence.

## **Vehicle tests**

- 5.52 A licence will be granted or renewed only if the vehicle is considered by the Council to be roadworthy, fit for purpose and meets the criteria specified.
- 5.53 Vehicles will be tested before the licence is initially granted, then every 6 months for vehicles up to 7 years old and every 4 months for vehicles older than that.

For clarification vehicles will be tested on application, at 6 months then will require a 12 month test for renewal or

Will be tested on application, at 4 months, at 8 months then will require a 12 month test for renewal.

- 5.54 Tests in relation to new applications, renewals and vehicle substitutions are carried out at the Council's testing Centres. If the vehicle fails the test it must be presented at the same garage for re-test.
- 5.55 The vehicle must have an MOT certificate from an approved MOT test centre after the vehicle is 1 year old.
- 5.56 The applicant or licensee must make an appointment for the vehicle to be tested as part of the application process. It is the responsibility of the applicant/licensee to do this and then to ensure that the vehicle is presented at the specified location and time. If the vehicle is presented late, there is no guarantee that the test will be able to be conducted on that day and a further test must be arranged. In that case the initial test fee will be forfeited and a second fee must be paid for the rearranged test.
- 5.57 A test appointment can be cancelled only if at least two clear working days notice (excluding Saturday, Sunday and Bank Holidays, the day on which notice is given and the day of the test) is given to the Council. If the specified notice is not given then the full test fee will still be charged.
- 5.58 If the consequence of missing the test means that the licence cannot be renewed before expiry, this will prevent the vehicle being used until such time as the licence is granted, with loss of income to the licensee. This will result in the renewal application being treated as a new application for a hackney carriage proprietors licence, in which case any acquired rights will be lost.

## **“Dual Plating”**

- 5.59 Once a vehicle has been licensed as a hackney carriage by Cumberland Council, it cannot be licensed as a hackney carriage (or private hire vehicle) by any other local authority or Transport for London during the duration of the licence.



- 5.60 The Council will not licence a vehicle that is licensed as a hackney carriage or private hire vehicle by another local authority or Transport for London.

### **Insurance “write-offs”**

- 5.61 The Council will not licence any vehicle as a hackney carriage that has been written off by an insurance company.

### **Vehicle Use**

- 5.62 You must maintain a policy of insurance for your licensed vehicle in accordance with Section 143 of the Road Traffic Act 1988.
- 5.63 If your vehicle has an accident which results in damage which may affect its safety, performance, appearance or the comfort or convenience of your passengers, you must report this to the Council within 72 hours (including weekends and bank holidays). (Section 50)(3) of the Local Government (Miscellaneous Provisions) Act 1976).
- 5.64 You must not obstruct any Authorised Officer or Police Officer. You must provide any assistance or information they may reasonably require. (Section 73) Local Government (Miscellaneous Provisions) Act 1976).
- 5.65 Any person driving a Hackney Carriage Vehicle at any time, for any purpose and anywhere in the United Kingdom, must be licensed to drive a Hackney Carriage under Section 46 Town Police Clauses Act 1847, even if the vehicle is not being used for hackney carriage or pre-booked purposes. Any person driving a hackney carriage without the required Hackney carriage driver's licence will be committing an offence under section 47 of the Town Police Clauses Act 1847. The only exceptions to this are when the vehicle is being tested by the Council or a mechanic in connection with vehicle maintenance.
- 5.66 If any hackney carriage proprietor permits a person who does not hold a hackney carriage drivers licence to drive the vehicle at any time (other than in accordance with the exceptions detailed above) the proprietor commits an offence and the Council will consider this a serious matter and action may be taken against the hackney carriage proprietors (vehicle) licence (whether or not a criminal prosecution or conviction ensued).
- 5.67 Once a vehicle has been licensed as a hackney carriage by Cumberland Council, it retains that status at all times for the duration of the licence (24 hours a day, 7 days a week. In addition to the requirement that it is only driven by a hackney carriage driver licensed by Cumberland Council (see above) the proprietor must ensure that at all times and wherever it may be located it complies with all requirements contained within the legislation and conditions. This includes the cleanliness of the vehicle, display of licence plates and additional signage.
- 5.68 If the hackney carriage vehicle licence is suspended, revoked or not renewed, the proprietor must return the licence plates and additional signage to the Council. If the decision is appealed, this must be done immediately after the end of the appeal period

(21 days from the written notification of the decision, or after any such appeal is determined or abandoned). If the suspension is immediate (under section 68 Local Government (Miscellaneous Provisions) Act 1976) this requirement must be complied with immediately.

## **WARNING NOTICE**

- 5.69 If there is anything in the design, construction, form or working appearance of a vehicle which, in the opinion of the Council or its authorised officers or testers renders the vehicle unfit for hackney carriage use (which includes pre-booked work), then Cumberland Council will not licence that vehicle.
- 5.70 Cumberland Council is not liable for any expense incurred in preparing or testing a vehicle, which cannot be licensed for whatever reason.
- 5.71 Any unauthorised modifications made since a previous licence was issued may lead to the suspension, revocation or refusal to renew a licence.

## **Duration and renewal of the licence**

- 5.72 The licence expires twelve months from the date of issue. Any application for renewal must be made within one month before the licence expires. If you do not apply to renew the vehicle licence in time there may be a period when you will be unable to use the vehicle as a Hackney carriage. If the renewal application is not received before the expiry of the current hackney carriage vehicle licence, it will be treated as a new application rather than a renewal and you will have to provide all the information that is required for new application. In that case any acquired rights will be lost. A temporary licence will not be issued.
- 5.73 Renewals are generally dealt with by officers under delegated powers, and can be processed quite quickly. However, if there have been any changes since the last grant of the licence (e.g. if the vehicle's age exceeds the policy or you or any of your joint proprietors (or directors or secretary in the case of a limited company) have been convicted of any offence, or there have been complaints or causes for concern about your behaviour) the renewal application may need to be considered by the Regulatory Sub-Committee.
- 5.74 The licence is issued to you but it can be transferred to another individual, partnership or limited company. Notification of any transfer must be made in writing and indicate the consent of all interested parties. An updated insurance document, V5 registration document and the applicable fee must be produced to the Council before any licence will be transferred. The Council will then issue a revised licence identifying the new licensee(s).

## **Plates and Additional Signage**

- 5.75 The licence plates and other additional signage provided to you by the Council must be displayed on the vehicle at all times in accordance with the diagrams contained in appendix 2. In addition, wheelchair accessible hackney carriages will be required to display "Wheelchair" stickers at all times.

5.76 If you lose or damage the plates or additional signage, replacements must be purchased from the Council.

### **Vehicle substitution/transfers**

5.77 If you wish to change the vehicle that is licensed the following procedures must be followed:

- a) You must complete an application for the “replacement” vehicle.
- b) You must pay the stated fee for a 12-month period.
- c) You must surrender the original licence. Any refund against a licence will be calculated by the Council on the number of days left on the original licence. This will take into account the period of time for which the licence has been held and the administration costs incurred, and will be subject to a minimum level of £50, below which no refund will be made.
- d) Your replacement vehicle must be presented for test and subsequently pass.
- e) Written proof of consent to the change of vehicle must be provided from all interested parties.
- f) A valid vehicle insurance certificate specifically stating that the vehicle is to be used for public hire/hackney carriage use. All such policies must be in the name of the licensee of the vehicle.
- g) A valid MOT issued by an approved MOT test centre if older than 1 year.
- h) A V5 vehicle registration document. In case of a new vehicle the sales invoice which must show engine and chassis numbers, shall be produced at the time of application and the registration document when it is received from DVLA. The registration document must in all cases be produced within 6 weeks of the licence being issued.
- i) The complete service/maintenance history for the vehicle since the date of purchase.

### **Letting/leasing of vehicles**

5.78 You must not lease or let or hire a licensed Hackney Carriage to any other person, other than a fare paying passenger, without first notifying the Council in writing. If you do enter into a leasing arrangement you will remain the licensee and will still be responsible for the vehicle.

5.79 You must notify the Council in writing of anyone no longer having an interest in the vehicle within 72 hours of the event.

5.80 The licence only relates to the vehicle specified in that licence, and at all times the vehicle must be owned by the licensee (or 1 person in a partnership). In the case of a vehicle which is leased to the proprietor by leasing company, the proprietor's name must be on the DVLA registration document (V5) and the applicant must provide supporting paperwork to show the leasing arrangement.

## **ADVERTISEMENTS**

5.81 No advertisements may be displayed in or from the vehicle unless prior written approval of the Council has been obtained. Any advertising must comply with all legislation and the British Code of Advertising Practice. Full details of the advertising policy is shown at appendix 1.

## **Maps and navigational devices**

5.82 Any electronic navigational device which is being used must be securely located within the vehicle and must not be operated by the driver while the vehicle is moving. Any electronic navigational device must be updated regularly. No handheld devices can be used unless they are securely located in a suitable cradle or other mounting device.

## **The taximeter and table of fares**

5.83 All vehicles must be fitted with a Council approved taximeter.

5.84 The vehicle must be fitted with a sealed taximeter that has been approved by the Council. It must be mounted in such a way as to avoid injury to the driver or passengers in the case of any collision and where it is visible to passengers. This must be in a safe and practical position in the vehicle where all letters and figures displayed on the meter are clearly visible to any passenger. The letters and figures must therefore be illuminated when in use.

5.85 The Council must test the meter before the vehicle can be used as a hackney carriage.

5.86 The meter must be set to ensure that the charge will never exceed the amount specified in the Council's Hackney Carriage Table of Fares.

5.87 When the meter is in use, the fare must be clearly legible on the face of the meter. This fare must be unambiguous and must not exceed the fare permitted by the Council's Hackney Carriage Table of Fares.

5.88 The word "FARE" must be clearly printed on the meter so it clearly indicates the fare displayed.

5.89 A notice showing the current Table of Fares must be displayed inside the vehicle in a position where any passengers can easily read it.

5.90 The meter must only be brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey.

- 5.91 If the meter fails or does not comply with the conditions, you must ensure the vehicle is not used as a hackney carriage.

### **Radios and other equipment**

- 5.92 Any radio, booking systems/data heads and/or GPS equipment provided must be maintained in a safe condition and any defects must be repaired promptly. The booking agent/licensed operator must ensure that the licence issued by Ofcom for all radio equipment used is current and valid. All equipment must only be used on the frequencies stipulated in the Ofcom licence and the booking agent/licensed operator must allow the Council access to inspect all equipment and Ofcom licenses.
- 5.93 Any radio, booking systems/data heads and/or GPS equipment provided must not interfere with any other radio or telecommunication equipment.
- 5.94 Where apparatus for the operation of a two-way radio, booking system/data heads and/or GPS systems are fitted, no part of the apparatus can be situated in a way which could cause accident or injury to a passenger, nor can it be placed in the rear boot compartment if LPG tanks are situated in there.

### **Signs**

- 5.95 No sign or advertisement is permitted on the vehicle, and no flag or other emblem can be flown from the vehicle, except as detailed below, unless required by law, or has been agreed by the Council in writing (see above in relation to advertisements).
- 5.96 The vehicle must be fitted with a sign with the word "TAXI" (minimum size 35 cm wide and 10 cm high) on its roof. The sign may be illuminated when the vehicle is available for hire.
- 5.97 You may display the name and telephone number of the company operating your vehicle in its rear windows. However, the display must be no more than 10 cm high, must not contravene the Road Traffic (Construction and Use) Regulations, and must not be illuminated.
- 5.98 If the vehicle is wheelchair accessible, it must display a sticker to illustrate this.

### **CCTV/Dashcam**

- 5.99 CCTV is not mandatory but you may choose to install it.
- 5.100 The data controller of a CCTV or Dashcam system fitted in a commercial/business vehicle, such as a hackney carriage or private hire vehicle, is required to register as a data controller with the ICO (Information Commissioner's Office).

## **Seating Arrangements**

5.101 In the vehicle all exits must be easily accessible. The seating configuration and number of passengers that can be carried is subject to assessment by the Council.

## **Incident logs**

5.102 The proprietor must maintain an incident log in an accessible format (either on a computer, other electronic device or a notebook). This must be used to record all incidents affecting the use of the hackney carriage including, but not limited to,

- a) collisions or accidents;
- b) damage to the vehicle;
- c) problems with the meter;
- d) refusals by any driver to carry a passenger (including the date, time, location, and reason for the refusal);
- e) any events, circumstances or incidents which lead the driver or proprietor to suspect that a passenger or passengers is involved in or is a victim of child sexual exploitation or any other abuse, modern slavery or trafficking of people, abuse or supply of drugs, involvement in terrorism or any other criminal activity.

5.103 Incidents must be recorded immediately, or as soon as possible thereafter and must state the date time and location of the incident, the names (if known) of any third parties and the date and time on which the incident was recorded.

5.104 This log must be available for inspection by an authorised officer of the council or a police constable at all times on request.

## **CONDITIONS**

5.105 The following Conditions are attached to your Hackney Carriage Vehicle Licence and must be complied with at all times. Failure to comply with conditions may lead to penalty points being imposed on your hackney carriage vehicle licence, suspension, revocation or refusal to renew the hackney carriage vehicle licence.

5.106 You must return your licence (and the plates and additional signage if requested by the Council) to the Council immediately if

- a) You change your home or business address
- b) If the licence expires, or is suspended or revoked
- c) You wish to surrender your Hackney Carriage Licence
- d) When required to do so by an Authorised Officer of the Council.

5.107 You must notify the Council within 72 hours of the event (including weekends and bank holidays) if you or anybody named on the licence as a joint proprietor (or any director or secretary of a limited company, or partner in a Limited Liability Partnership when the licence is held by such a body) is arrested in connection with, charged with or convicted of any criminal offence. The same requirement applies in relation to any

fixed penalty notices, speed awareness courses, community protection notices or civil injunctions.

- 5.108 If your vehicle has an accident which results in damage which may affect its safety, performance or appearance or the comfort or convenience of your passengers, you must report this to the Council within 72 hours (including weekends and bank holidays) using the Council's proforma. If you are in doubt as to whether the vehicle is affected you must notify the Council.
- 5.109 You must maintain an incident log in an accessible format (either on a computer, other electronic device or a notebook). In this you must record all incidents affecting the use of the hackney carriage including, but not limited to,
- a) collisions or accidents;
  - b) damage to the vehicle;
  - c) problems with the meter;
  - d) refusals by any driver to carry a passenger (including the date, time, location, and reason for the refusal);
  - e) any events, circumstances or incidents which lead the driver or proprietor to suspect that a passenger or passengers is involved in or is a victim of child sexual exploitation or any other abuse, modern slavery or trafficking of people, abuse or supply of drugs, involvement in terrorism or any other criminal activity.
- 5.110 Incidents must be recorded immediately, or as soon as possible thereafter and must state the date time and location of the incident, the names (if known) of any third parties and the date and time on which the incident was recorded.
- 5.111 This log must be available for inspection by an authorised officer of the Council or a police constable at all times on request.

## **Drivers**

- 5.112 You must notify the Council of the details (name, address and taxi drivers' licence number) of any person who is permitted by you to drive your hackney carriage for any purpose (this does not include mechanics undertaking vehicle maintenance). This notification must be made as soon as possible and in any event within 72 hours of that permission being given. If you no longer permit that person to drive your hackney carriage you must notify the Licensing Section in writing, using the Council's approved forms, within 72 hours.
- 5.113 Before you allow anyone to drive your Hackney Carriage you must ensure that that person hold the appropriate licence. You must ensure that they understand and will observe the law and byelaws that regulate their conduct and the conditions attached to the vehicle licence.
- 5.114 Note- No person may drive a Hackney Carriage, unless they hold a Hackney Carriage Driver Licence issued by Cumberland Council. Anyone found driving a Hackney Carriage without a Hackney Carriage Driver Licence, may be prosecuted.

## **Insurance**

5.115 You must ensure that a valid policy of suitable insurance for hackney carriage/private hire work is in place for the vehicle and covers anyone who drives your Hackney Carriage/Private Hire vehicle. The policy must expressly cover the use of that vehicle as a hackney carriage/private hire vehicle. The minimum expectation is a third party policy but the Council would encourage drivers to obtain comprehensive insurance due to the added benefits.

## **Production of Documents**

5.116 You must not obstruct any Authorised Officer or Police Officer. You must provide any assistance or information they may reasonably require.

5.117 If an Authorised Officer of the Council (or another Council with whom a reciprocal arrangement is in place) or a police officer asks you, you must produce:

- a) Your licence
- b) The Hackney Carriage Driver Licence of any person authorised to drive your Hackney Carriage
- c) The vehicle registration document
- d) A valid certificate of insurance

within five days of the request being made.

## **Licence Plates**

5.118 The licence plates and additional signage remain the property of the Council and must be returned to the Council whenever the vehicle is not licensed as a Hackney Carriage.

5.119 You must secure and display the exterior licence plates permanently to the outmost front and rear part of the vehicle. The method of fixing must prevent the plates being removed without the need for tools. Both plates must at all times must be displayed so that it can be clearly read by pedestrians and road users. The licence plates must not be displayed in any window of the vehicle.

5.120 You must display the additional signage on the near side and off side rear doors and the internal signs issued by the Council inside the vehicle so that they are visible to front and rear passengers at all times. All wheelchair accessible vehicles must display a wheelchair sticker on the near side and off side rear doors.

5.121 You must display the window sticker, issued by the Council, notice referring to the complaints procedure in the vehicle where it can be clearly seen by all passengers. and copies of the complaints procedure leaflet must be available in the vehicle.

5.122 You must report the theft or loss of the licence plates or additional signage to the Council within 24 hours of becoming aware of the theft or loss, by email. You must



then obtain duplicate licence plates and/or additional signage for which a charge will be made.

- 5.123 You must not wilfully or negligently cause or suffer any plates or additional signage on your vehicle to be concealed from public view at any time.
- 5.124 You must return the licence plates and additional signage to the council If the hackney carriage proprietor (vehicle) licence is suspended, revoked or not renewed.

## **Vehicle inspection**

- 5.125 You must allow an Authorised Officer of the Council, or Police Officer, to inspect your vehicle at any reasonable time.
- 5.126 You must ensure the vehicle is presented for test in accordance with instructions from the Council.
- 5.127 You must produce the vehicle registration document or bill of sale/sales invoice and the service history (invoices specifying the registration number will be accepted) to the authorised examiner at the test. If applicable, the LOLER (Lifting Operations and Lifting Equipment Regulations) must also be provided.
- 5.128 No change in the specification, design, condition or appearance, or any modification, conversion or alteration of the vehicle can be made unless prior written approval has been given by the Council.
- 5.129 The vehicle must fully comply with all relevant Road Traffic legislation and in addition:
  - a) All doors must function correctly and be capable of being opened from outside and within the vehicle.
  - b) All opening windows must function correctly and be capable of being opened from within the vehicle.
  - c) All luggage must be properly secured inside a vehicle that does not have a separate and self contained boot. Any safety grille fitted to the vehicle must be in accordance with the manufacturers recommendation.
  - d) If a trailer is being used the driver must ensure that the lights on the trailer are working correctly and that the trailer plate is properly displayed on the rear of the trailer. A waterproof cover must be used to protect any luggage.
  - e) Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any division which may be fitted between the drivers and passenger compartments.
  - f) The vehicle and all seats, door handles and trim, and all internal and external parts of the vehicle must be maintained at all times in a clean, comfortable, safe, and mechanically sound condition and be in every way suitable for public service.

- g) The floor covering must not be torn or frayed.
- h) The vehicle must be fitted with nearside and offside exterior rear view mirrors which must be maintained in a serviceable condition.
- i) The glass in the vehicle must not be replaced with glass that is different from the glass fitted when the vehicle passed the Council's vehicle test. Any unapproved (by the Council) self-adhesive material (tinted or clear) must not be affixed to any part of the glass.
- j) The vehicle's power output must not be less than power output when the vehicle was new, and any replacement engine must be of the same or greater power output. In the case of a replacement engine, the Council must be notified of that within 72 hours of the fitting, and the revised V5 must be presented to the council as soon as it is received.

### **Additional Conditions for wheelchair accessible Hackney Carriages:**

- 5.130 At all times, the vehicle must carry in a safe, usable condition suitable ramps for a wheelchair user. If the alternative tail lift or some other mechanical means of access is fitted it must be maintained in a safe, functioning condition.
- 5.131 The driver must ensure before the commencement of the journey that the passenger is correctly seated and the wheelchair is correctly secured and the passenger is correctly restrained, and at the end of the journey must ensure that the passenger is delivered safely onto the pavement.
- 5.132 The door entrance and any steps must always be conspicuously marked where appropriate, to help visually impaired passengers.
- 5.133 All grab handles or rails must always be conspicuously marked to help visually impaired passengers.

### **Sliding doors**

- 5.134 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted, the child locking systems must be engaged by the driver at all times when the vehicle is in motion and carrying passengers.

### **Lost property**

- 5.135 The driver must search the vehicle after each hiring has been completed, and any lost property found must be recorded. If the driver knows the identity and/or whereabouts of the last passenger, they can return the property to them. If not the driver must make reasonable efforts to trace the owner and return the property to them. If the hackney carriage had been pre-booked via a booking agent or licensed private hire operator the lost property can be given to them.

## **No Smoking**

5.136 The vehicle must have at least 1 “no smoking/no vaping” sign displayed inside the vehicle clearly visible to passengers.

## **Byelaws**

5.137 **Insert a copy of the relevant byelaws**

## **Up to date list of hackney carriage ranks**

5.138 **Insert a list of current Hackney carriage** ranks

## **Up to date Table of Fares**

5.139 The legacy table of fares apply until review.

## **LEGAL REQUIREMENTS relating to a Hackney carriage**

5.140 It is an offence to provide false information when applying for hackney carriage proprietors licence (s40 Town Police Clauses Act 1847).

5.141 You must notify the Council of any change of address of yourself or any other hackney carriage proprietor (s44 Town Police Clauses Act 1847).

5.142 The proprietor of a hackney carriage commits an offence if the vehicle is used to ply or stand for hire other than in the zone or district in which it is licensed (s45 Town Police Clauses Act 1847).

5.143 You must not employ an unlicensed driver (s47 Town Police Clauses Act 1847).

5.144 You must hold the drivers licence of those driving the vehicle, and produce it if requested to do so by a magistrates court (s48 Town Police Clauses Act 1847).

5.145 You must ensure that all times the vehicle displays the hackney carriage plate (s52 Town Police Clauses Act 1847).

5.146 You must notify any transfer of the vehicle licence to another proprietor within 14 days (s49 Local Government (Miscellaneous Provisions) Act 1976).

5.147 You must present the hackney carriage for inspection as required by the Council (s50(1) Local Government (Miscellaneous Provisions) Act 1976).

5.148 You must inform the Council where the hackney carriage is stored if requested to do so (s50(2) Local Government (Miscellaneous Provisions) Act 1976).

5.149 You must report any collision that has caused damage to the safety performance or appearance of the vehicle to the council within 72 hours (s50(3) Local Government (Miscellaneous Provisions) Act 1976).

- 5.150 You must produce the vehicle licence and insurance if requested to do so by the Council (s50(4) Local Government (Miscellaneous Provisions) Act 1976).
- 5.151 You must return the plate to the council once you receive notice to do so after expiry revocation or suspension of the proprietor's licence (s58(2) Local Government (Miscellaneous Provisions) Act 1976).
- 5.152 It is an offence to interfere with a taximeter (s71 Local Government (Miscellaneous Provisions) Act 1976).
- 5.153 You must not obstruct, fail to comply with any requirement made by, or fail to give any information to, an authorised officer of the Council, an authorised officer of another Council with which there is a reciprocal enforcement arrangement, or a police constable (s73 Local Government (Miscellaneous Provisions) Act 1976).
- 5.154 You must not conceal obscure the number of the hackney carriage whilst standing or plying for hire, or use the vehicle with a defaced or damaged plate (Hackney Carriage Byelaw).
- 5.155 You must provide a means of communication between passengers and drivers (Hackney Carriage Byelaw).
- 5.156 You must ensure that the vehicle is watertight (Hackney Carriage Byelaw).
- 5.157 You must ensure that the windows open and close (Hackney Carriage Byelaw).
- 5.158 You must ensure that the seats are properly covered (Hackney Carriage Byelaw).
- 5.159 You must ensure that the floor is properly covered (Hackney Carriage Byelaw).
- 5.160 You must ensure that the vehicle is clean well maintained and fit for public service (Hackney Carriage Byelaw).
- 5.161 You must ensure that there is a means for securing luggage if required (Hackney Carriage Byelaw).
- 5.162 You must ensure that the taximeter is plainly visible to passengers and illuminated (Hackney Carriage Byelaw).
- 5.163 You must not tamper with the taximeter (Hackney Carriage Byelaw 6).
- 5.164 You must display the table of fares and not conceal it or render it illegible (Hackney Carriage Byelaw 15).
- 5.165 You must search the vehicle after every hiring (usually the responsibility of the driver, but also applies to the proprietor) (Hackney Carriage Byelaw).

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# Section 6

# PRIVATE HIRE VEHICLE LICENCES

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## **Local Government (Miscellaneous Provisions) Act 1976**

### **Implementation of policy**

**Vehicles** – Vehicles are licensed for 1 year. The current conditions across the 3 legacy councils are not changing significantly but will have a change of test criteria. The proposal for vehicles removes the upper age limit. The proposal is from 1 April 2025 that existing licensed vehicles meet the new criteria on renewal of licence. Vehicles first licensed will be required to meet the new conditions from 1 April 2025.

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This document contains the policy, conditions and legislation relating to your Private Hire Vehicle licence. The legislation uses both of the terms “vehicle” and “proprietor” in relation to private hire vehicle licences, but as these are often referred to as private hire vehicle licences, for the avoidance of doubt the term “Private Hire Vehicle” will be used throughout this policy.

As Private Hire Vehicle licences can be held by limited companies, limited liability partnerships (LLP) and conventional partnerships as well as individuals, this policy must be read to give effect to that. Any reference to a “person”, “you”, “licensee” or “proprietor” is taken to mean the proprietor of the private hire vehicle.

There is a power to attach conditions to Private Hire Vehicle licences, and the Council has standard conditions which attach to these licences. These are contained within this document.

There is also a list of the main legislation that applies to Private Hire Vehicle proprietors.

## **Introduction**

- 6.1 The purpose of licensing private hire vehicles is to protect the public, including passengers and others who may otherwise be placed at risk from unlicensed and potentially dangerous vehicles.
- 6.2 It is a privilege to hold a Private Hire Vehicle licence and licensees have responsibilities to their drivers, passengers and customers, other road users and the public generally. The Council has been satisfied that when you applied for your licence the vehicle was suitable and safe for use as a private hire vehicle and that you were a safe and suitable person to have that licence granted (please see Section 3 for the Councils' Suitability Guidance). In assessing that, the Council took into account the type of the vehicle, the condition of the vehicle and your entire character and behaviour.
- 6.3 As a vehicle proprietor this assessment of your character not only includes times when you are working within the private hire trade, but it all other times as well. This can include your use of social media as well as other forms of communication. The requirement to satisfy the Council that you are a safe and suitable person continues throughout the duration of the licence. If at any time the standard of the vehicle or your behaviour falls below the standards expected for new applications, the Council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence. In relation to your personal actions, it is no defence to argue that your actions took place when you were not working within the Private Hire trade. You should appreciate that under the Suitability Guidance, if the unacceptable or criminal behaviour took place whilst you were working within the private hire trade that will be viewed as an aggravating feature by the Council.
- 6.4 In many cases a private hire vehicle is the first vehicle that a visitor to the area will encounter following arrival at airport, railway station or bus station. As a consequence, the appearance of private hire vehicles can affect a person for their entire visit. Private hire vehicle proprietors should be aware of this and ensure that their vehicle is maintained to the highest standard at all times.
- 6.5 Please note, this section reminds you of some of the important legal requirements with which you must comply. This is not a comprehensive list. You should familiarise yourself with the Local Government (Miscellaneous Provisions) Act 1976 and all other relevant legislation.
- 6.6 The Council has decided to attach conditions to Private Hire Vehicle licences that it considers reasonably necessary under the powers contained in section 48(2) of the 1976 Act. The conditions are in addition to the statutory requirements of the legislation. Section 48(7) of the Local Government (Miscellaneous Provisions) Act 1976 gives the right of appeal to the Magistrates' Court to any person aggrieved by any of the

conditions attached to their licence within 21 days of receipt of the licence. The conditions can be found in paragraph 6.102 onwards.

- 6.7 You must understand and comply with the legal requirements relating to the private hire vehicle licensed in your name, a limited company in which you are a director or secretary, a limited liability partnership in which you are a partner, or in joint names when you are one of the named individuals. Failure to comply with the requirements may result in your Private Hire Vehicle licence being suspended or revoked.
- 6.8 The Council office for hackney carriage and private hire licensing purposes is The Licensing Section: -

Cumberland Council  
Allerdale House  
New Bridge Road  
Workington  
Cumbria  
CA14 3YJ  
[licensing1@cumberland.gov.uk](mailto:licensing1@cumberland.gov.uk)

Cumberland Council  
Civic Centre  
Rickergate  
Carlisle  
Cumbria  
CA3 8QG  
[licensing2@cumberland.gov.uk](mailto:licensing2@cumberland.gov.uk)

Cumberland Council  
Whitehaven Commercial Park  
Moresby Parks  
Whitehaven  
Cumbria  
CA28 8YD  
[licensing3@cumberland.gov.uk](mailto:licensing3@cumberland.gov.uk)  
Telephone: **0300 373 3730**

### **Sanctions against the Private Hire Vehicle licence**

- 6.9 Where a proprietor breaches any legislation or condition of the licence, they may be referred to the Regulatory Sub-Committee.
- 6.10 The Council also runs its own Penalty Points Scheme as a method of enforcing the requirements for private hire and hackney carriage licensees (see section 2). Each year (running from 1<sup>st</sup> April to 31<sup>st</sup> March) a maximum of 12 Council penalty points can

be accrued on a private hire vehicle licence. Any proprietor who accrues 12 or more points will be brought before the Regulatory Sub-Committee where their safety and suitability to retain a private hire vehicle licence will be considered.

- 6.11 Whenever, and in what circumstances a proprietor is brought before the Regulatory Sub-Committee, the Sub-Committee will decide each case on its merits, after reading and hearing the evidence and, if necessary, making findings of fact.
- 6.12 The Regulatory Sub-Committee may also suspend or revoke the Private Hire Vehicle licence (see below) or impose further penalty points.

### **Power to take action against a Private Hire Vehicle licence**

- 6.13 Under section 60 Local Government (Miscellaneous Provisions) Act 1976, the Council may suspend, revoke or refuse to renew a Private Hire Vehicle licence on the following grounds:
- a. that the private hire vehicle is unfit for use as a private hire vehicle;
  - b. any offence under, or non-compliance with, this Part of this Act by the operator or driver; or
  - c. any other reasonable cause.
- 6.14 An Authorised Officer of the Council, an authorised officer of another Council where there is a reciprocal arrangement, or a police constable can immediately suspend a Private Hire Vehicle licence under section 68 of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that the vehicle is unfit.
- 6.15 Failure to comply with any private hire vehicle legislation or other road traffic legislation is an offence and you may be liable to prosecution. In addition (irrespective of whether you were prosecuted or convicted of the offence(s)), the Council may take action against your licence which could lead to your Private Hire Vehicle licence being suspended revoked or the renewal refused.
- 6.16 Failure to comply with the Council's conditions may result in your Private Hire Vehicle licence being suspended, revoked or the renewal refused.
- 6.17 If any information given by you on the application for this licence proves to be false, or you fail to disclose any relevant information on your application, the licence may be revoked, and you may also be prosecuted under section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976.
- 6.18 The Private Hire Vehicle licence remains the property of the Council.
- 6.19 In the event that you lose your vehicle licence documents, Private Hire Vehicle licence plates or additional signage, or if they are damaged or defaced, you must get a



replacement licence or plates on payment of a fee determined by the Council, and you cannot use the private hire vehicle until such replacements are obtained and fitted.

- 6.20 It must be understood that a decision to grant a Private Hire Vehicle licence is made on the basis of the condition and suitability of the vehicle and the suitability of the proprietor(s) on the particular facts of the case on the day of the decision. That suitability can be lost at any time in the future and you must ensure that the condition of your vehicle and your behaviour remains of the highest standard to protect your vehicle licence and therefore your livelihood.

## **POLICY**

### **General (Including Specifications for a Private Hire Vehicle)**

#### **Applicants**

- 6.21 Private Hire Vehicle licences can be held by individuals, limited liability partnerships (LLP), conventional partnerships (two or more people in business together) or limited companies. Usually the vehicle must be registered to one of those, but there will be occasions where the vehicle is leased or hired. In all cases the applicant(s) must demonstrate that they have ownership of the vehicle, a financial interest in the vehicle or permission to use the vehicle on an extended basis (in the case of a lease or hire). A V5 registration document is not proof of ownership and other documentation will be required. This can include, but is not limited to
- a) Receipt for the purchase of the vehicle
  - b) Lease/hire contract
  - c) Partnership agreement between 2 or more individuals

#### **Character of the applicant**

- 6.22 The licensee of a private hire vehicle can exert control over those who drive that vehicle, and as a consequence it is essential that they satisfy the Council that they are a suitable person to hold a Private Hire Vehicle licence.
- 6.23 All applicants (new and on renewal) will be required to provide a Basic Disclosure and Barring Service check at their own expense, as part of the application process. Where a proprietor holds more than one vehicle licence, they will only be required to obtain one basic DBS certificate per annually. The same will be required of all partners in a limited liability or conventional partnership and all directors and secretary of a limited company when the application is made, or the licence is held, by a limited liability or conventional partnership or limited company. This does not apply if a proprietor is a

licensed driver with the Council and already holds a valid enhanced DBS certificate and subscribes to the update service.

- 6.24 The application will then be considered in the light of the Council's Suitability Guidance (see section 3).
- 6.25 In addition, the Council will take into account the compliance and maintenance history of previous and existing vehicles licensed by the applicant. The Council does not regard licensees whose vehicles fail regular tests as being a safe and suitable person to have responsibility for private hire vehicles. All vehicles must be maintained to a satisfactory standard at all times and should pass any test at any point.
- 6.26 To enable the council to make a decision as to whether or not an applicant is a suitable person to be granted or continue to hold a private hire vehicle licence the following test will be used:

"Without any prejudice, and based on the information before you, would you be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?"

## **Convictions**

- 6.27 If you or anybody else with an interest in the vehicle or who is named on the licence is arrested in connection with, charged with or convicted of any criminal offence, that must be reported to the Council within 72 hours (including weekends and bank holidays). The same requirement applies in relation to any fixed penalty notices, speed awareness courses, Community Protection Notices, civil injunctions, or Criminal Behaviour Orders or other sanctions or restrictions that you receive, have to attend or that are imposed on you.

## **Vehicles**

- 6.28 It is the applicant's responsibility to ensure that any vehicle presented for licensing as a private hire vehicle meets the Council's criteria which are detailed below. As the Council will not be liable for any loss as a result of a vehicle not being licensed, it is vital that applicants ensure that any vehicle that they are considering purchasing meets these criteria.

## **Licensed Vehicle Type, Age and Emissions**

- 6.29 Any vehicle submitted to be licensed as a private hire vehicle must be of Category M1 (as shown on the registration document) unless either of the following apply:
- Category M2 or N1 vehicles (as shown on the registration document) will be acceptable provided the vehicle has passed an IVA (Individual Voluntary Approval) test and there is evidence to show that no modification to be made to that vehicle since the date of that test.
  - Q registered vehicles are not accepted.
  - Convertible vehicles will not be accepted.
- 6.30 Vehicles are constantly being improved by manufacturers, and improved standards are imposed by the Government. Newer vehicles are safer, less environmentally damaging and less likely to break down. Vehicles deteriorate due to a combination of age and use.
- 6.31 In order to reduce emissions it is important to set standards that are common to all within the private hire vehicle fleet, to ensure consistency and a level playing field for proprietors. The age of vehicles and the exhaust emissions are critical to the level of pollutants emitted. Consequently, to improve air quality and reduce emissions from the private hire vehicle fleet, the following standards will apply.
- 6.32 From 1<sup>st</sup> April 2025, new licences will not be granted in respect of vehicles that were first registered (or, in the case of imported vehicles, manufactured) more than 7 years prior to the date that the application was made. WAV's are exempt from this condition.

### **Low Emission Vehicles**

- 6.33 The Council aims to encourage the uptake of low emission vehicles in the District, and will examine the feasibility of introducing differential licensing fees for electric, hybrid and ultra-low emission vehicles.

### **Acquired rights**

- 6.34 If a vehicle has been continually licensed as a private hire vehicle by Cumberland Council before 1<sup>st</sup> April 2025, and a renewal application is made before the expiry of that private hire vehicle licence, then that vehicle can continue to be licensed, subject to it passing the required mechanical and other tests to assess suitability.

### **Vehicle specification**

- 6.35 There are 3 different types of vehicle that can be licensed as private hire vehicles: those which are Wheelchair Accessible Vehicles (WAV), those which are not and stretched limousines.
- 6.36 The Council maintains a list of all WAV (both private hire vehicles and hackney carriages). Drivers of those vehicles must then provide mobility assistance to wheelchair-bound passengers (please see the dual drivers licence documentation for details).
- 6.37 The following specifications detail the minimum requirements for each type of vehicle, together with the requirements for all private hire vehicles.

### **Non-Wheelchair accessible vehicles**

- 6.38 If the vehicle is to be licensed as a Non-WAV (saloons, estate cars, people carriers (MPV), sports utility vehicles (SUV) and any other vehicle that cannot carry a passenger whilst they remain in their wheelchair excluding stretched limousines) it must be approved by the Council and comply with the following specification:
- a. Be a right-hand drive vehicle.
  - b. Have at least four doors that can be opened from both inside and outside the vehicle. Each door (except the driver's door) must be capable of being opened by passengers.
  - c. Have a minimum seating capacity for one adult passenger, and vehicles that seat more passengers must provide at least four adult passengers based on a width of not less than 400 mm per person across the rear seat.
  - d. Must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger's luggage or any equipment. If that is not possible or practical then e. below will apply
  - e. Roof racks, towbars and trailers will be permitted. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative.
  - f. Tow bars (if fitted) must be fitted in accordance with the manufacturer's instructions.
  - g. Any trailer that is used must meet the following requirements and be tested by the Council (the charge to be paid by the licensee) and will be issued with a "trailer plate" which must be displayed on the rear of the trailer and clearly visible whenever the trailer is being used by the private hire vehicle. The trailer can only be used on the specified private hire vehicle. Trailers must comply with the following standards:
    - i. A suitable lid or other approved means of enclosure must be fitted to secure the contents within the trailer whenever in use and keep the contents dry.
    - ii. The trailer must at all times comply with all Road Traffic legislation requirements.
    - iii. The vehicle insurance must cover towing a trailer.

- iv. Trailers must not be left unattended anywhere on the highway.
- v. The speed restrictions applicable to trailers must be observed at all times.
- vi. The registration number plate of the private hire vehicle and the Council issued “trailer plate” must be attached to the rear of the trailer.
- vii. The trailer must be inspected annually and must be considered to be satisfactory by the Licensing Authority.
- viii. Only drivers with the appropriate DVLA driving licence category may drive a vehicle with a trailer. The vehicle proprietor must check any driver’s DVLA licence for the required category, prior to allowing the use of a trailer.

6.39 Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any division between the drivers and passenger compartments.

### **Additional requirements for minibus and MPV type vehicles**

6.40 In order to be licensed as a private hire vehicle, any Minibus/MPV-type vehicles must be fitted, in addition to the front driver and passenger doors, with at least:

- a. one other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle; or
- b. two side loading doors that can be opened from the inside.

### **Wheelchair Accessible Vehicles (WAV)**

6.41 The vehicle must be capable of carrying a wheelchair bound passenger which meets the following specification. It cannot look like a hackney carriage.

6.42 Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle, must have European Community Whole Vehicle Type Approval (ECWVTA), or Individual Vehicle Type Approval, including an inspection certificate issued by the Driver and Vehicle Standards Agency (DVSA) as a minimum standard:

- a) The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair itself.
- b) The passenger compartment must have a minimum unobstructed available width of 0.74 metres (including at the point of entry).
- c) The passenger compartment must have a minimum unobstructed available length of 1.2 metres for a wheelchair and user.
- d) The passenger compartment must have a minimum unobstructed available height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.

- e) The passenger compartment must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- f) The passenger compartment must be fitted with a suitable 3-point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- g) The vehicle must have suitable ramps for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- h) Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.
- i) At least one door entrance must be designed and constructed to help elderly and disabled passengers get in and out of the vehicle. The door entrance and any steps must be conspicuously marked where appropriate, to help visually impaired passengers.
- j) All passenger door entrances must have grab handles or rails suitably located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.
- k) To assist elderly and disabled passengers, at least one passenger seat must be of a “swivel” or other design and construction, approved by the Council.

### **Stretched Limousines**

- 6.43 The term “stretched limousine” in this policy will be taken to mean any vehicle that has been modified after manufacture with an additional body section, extending the vehicle length.
- 6.44 Any vehicle, before it can be considered to be licensed as a stretched limousine, must have European Community Whole Vehicle Type Approval (ECWVTA), or Individual Vehicle Type Approval, including an inspection certificate issued by the Driver and Vehicle Standards Agency (DVSA) as a minimum standard.
- 6.45 Stretched limousines will only be licensed to carry a maximum of 8 passengers.
- 6.46 All passenger seats must be equipped with a 3 point seat belt.
- 6.47 Any stretched limousine (any vehicle which has been modified to be longer than the manufacturer’s original specification) which is presented for licensing as a private hire vehicle must be covered by:
- a) A UK Single Vehicle Approval Certificate; or
  - b) A European Whole Vehicle Approval Certificate; or

- c) A UK Low Volume Type Approval Certificate; or

### **All vehicles**

6.48 The following are the minimum requirements for all Private Hire Vehicles, irrespective of their type:

- a) The vehicle must be wind and water-tight.
- b) The vehicle must have a floor properly covered with carpet or other suitable covering.
- c) The vehicle must have an adequate functioning internal light to enable passengers to enter and leave the vehicle safely.
- d) The vehicle's bodywork and paintwork must be in good condition and must be maintained to an acceptable standard, free from dents or other damage or rust.
- e) The vehicle must not be fitted with any additional external accident protection devices (e.g. bull bars or additional bumpers).
- f) The vehicle must carry a spare wheel and tyre of the correct size to fit the vehicle, together with equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, all of which must be securely stored. If the manufacturer's specification when the vehicle was new did not include a spare wheel, the manufacturer's alternative (e.g. spray can) will be acceptable.
- g) The vehicle must be fitted with tyres which meet the specifications detailed by the manufacturer in terms of size and speed rating. They must have at least 2 mm of tread across the entire contact surface.
- h) The vehicle must be fitted with nearside and offside exterior rear view mirrors.
- i) The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.
- j) All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt or, where that was not a manufacturer's option when the vehicle was manufactured, a factory fitted lap belt. Any retrospectively fitted seat belts must be approved by the Council.
- k) The vehicle must be fitted with glass which complies with current Construction and Use Regulations (the Road Vehicles (Construction and Use) Regulations 1986 as amended). These regulations require that the front windscreen allows 75% of light to be transmitted and the front door windows allow 70% of light to be transmitted. In addition, the remaining glass within the vehicle must have a minimum light transmittance of not less than 70%. The rear of the vehicle must be fitted with at least one window (or one window per rear door fitted), the light transmission capacity of which must be a minimum of 70%. No self-adhesive material (tinted or clear) can be affixed to any part of the glass without the approval of the council.
- l) The vehicle's power output must not be less than 100 bhp or 74.5 kw.

- m) The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council.
- n) The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and driver seats, and 0.84 metres in relation to any other passenger seats.
- o) The minimum unobstructed distance between the seat back and the footwell bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- p) The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding any arm rests).
- q) Any vehicle that has been converted to run on liquid petroleum gas (LPG) must be accompanied by a certificate stating that the conversion was undertaken in accordance with the LPG gas Association's code of practice, and if the conversion was undertaken more than one month before the application for the licence, an annual installation check which is not more than one month old.

6.49 In addition, in all types of Private Hire Vehicle the following requirements must be met.

### **Seating**

6.50 In any vehicle all exits must be easily accessible. The seating configuration and number of passengers that can be carried is subject to assessment by the Council.

### **Documents**

6.51 A vehicle licence will only be issued where the vehicle has evidence of:

- a) A valid vehicle insurance certificate specifically stating that the vehicle is to be used for private hire use.
- b) A valid MOT issued by an approved MOT test centre.
- c) A V5 vehicle registration document. In case of a new vehicle, the sales invoice, which must show engine and chassis numbers, shall be produced at the time of application and the registration document when it is received from DVLA. The registration document must in all cases be produced within 6 weeks of the licence being issued.
- d) The complete service history for the vehicle since the date of purchase.

6.52 Before or on the date of expiry of any certificate, the certificate about to expire must be produced together with the relevant renewal certificate to the Council.



6.53 Most documents will be accepted via email but originals must be provided if requested.

### **Engine/Chassis Numbers**

6.54 The Chassis/Vehicle Identification Number Plates and engine numbers must match the numbers recorded with the DVLA as detailed on the V5 Document. Vehicle applications cannot be accepted without a copy of the vehicle registration document, or in the case of new vehicle purchase, the sales documentation indicating the engine and chassis numbers. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police Vehicle Identification Section who may undertake checks to ensure the vehicle is not stolen. If the engine is changed at any time whilst the vehicle is a licensed private hire vehicle, the Council must be notified within 72 hours of that change and the updated V5 must be produced as soon as it is received from DVLA.

### **Maintenance and servicing**

6.55 Vehicles must be maintained correctly and serviced in accordance with the manufacturer's recommendations. The service history of the vehicle will be inspected at first application and on every renewal of the licence.

### **Vehicle tests**

6.56 A licence will be granted or renewed only if the vehicle is considered by the Council to be roadworthy, fit for purpose and meets the criteria specified.

6.57 Vehicles will be tested before the licence is initially granted, then every 6 months for vehicles up to 7 years old and every 4 months for vehicles older than that.

For clarification vehicles will be tested on application, at 6 months then will require a 12 month test for renewal or  
Will be tested on application, at 4 months, at 8 months then will require a 12 month test for renewal.

6.58 Tests in relation to new applications, renewals and vehicle substitutions are carried out at the Council's testing Centre. If the vehicle fails the test it must be presented at the same garage for retest.

6.59 The vehicle must have an MOT certificate from an approved MOT test centre.

6.60 The applicant or licensee must make an appointment for the vehicle to be tested as part of the application process. It is the responsibility of the applicant/licensee to do this and then to ensure that the vehicle is presented at the specified location and time. If the vehicle is presented late, there is no guarantee that the test will be able to be

conducted on that day and a further test must be arranged. In that case the initial test fee will be forfeited and a second fee must be paid for the rearranged test.

- 6.61 A test appointment can be cancelled only if at least two clear working days notice (excluding Saturday, Sunday and Bank Holidays, the day on which notice is given and the day of the test) is given to the Council. If the specified notice is not given then the full test fee will still be charged.
- 6.62 If the consequence of missing the test means that the licence cannot be renewed before expiry, this will prevent the vehicle being used until such time as the licence is granted, with loss of income to the licensee. This will result in the renewal application being treated as a new application for a Private Hire Vehicle licence, in which case any acquired rights will be lost.

### **Dual Plating**

- 6.63 Once a vehicle has been licensed as a private hire vehicle by Cumberland Council, it cannot be licensed as a private hire vehicle (or hackney carriage) by any other local authority or Transport for London during the duration of the Cumberland Council licence.
- 6.64 The Council will not licence a vehicle that is licensed as a private hire vehicle or hackney carriage by another local authority or Transport for London.

### **Insurance “write-offs”**

- 6.65 The Council will not licence any vehicle as a private hire vehicle that has been written off by an insurance company.

### **Vehicle Use**

- 6.66 You must maintain a policy of insurance for your licensed vehicle in accordance with section 143 of the Road Traffic Act 1988.
- 6.67 If your vehicle has an accident which results in damage which may affect its safety, performance, appearance or the comfort or convenience of your passengers, you must report this to the Council within 72 hours (including weekends and bank holidays) (section 50)(3) of the Local Government (Miscellaneous Provision) Act 1976).
- 6.68 You must not obstruct any Authorised Officer of the Council or police officer. You must provide any assistance or information they may reasonably require (section 73 of the Local Government (Miscellaneous Provision) Act 1976).
- 6.69 Any person driving a private hire vehicle at any time, for any purpose and anywhere in the United Kingdom, must be licensed to drive a private hire vehicle under section 51

of the Local Government (Miscellaneous Provision) Act 1976, even if the vehicle is not being used for private hire purposes. Any person driving a private hire vehicle without the required private hire driver's licence will be committing an offence under section 46(1)(b) of the Local Government (Miscellaneous Provision) Act 1976. There are no exceptions to this even in relation to testing the vehicle.

- 6.70 If any private hire vehicle proprietor permits a person who does not hold a private hire vehicle driver licence to drive the vehicle for any hiring the proprietor commits an offence under s46(1)(c) of the Local Government (Miscellaneous Provision) Act 1976 and the Council will consider this a serious matter and action may be taken against the Private Hire Vehicle (proprietor) licence (whether or not a criminal prosecution or conviction ensued).
- 6.71 Once a vehicle has been licensed as a private hire vehicle by Cumberland Council, it retains that status at all times for the duration of the licence (24 hours a day, 7 days a week). In addition to the requirement that it is only driven by a private hire driver licensed by Cumberland Council (see above) the proprietor must ensure that at all times and wherever it may be located it complies with all requirements contained within the legislation and conditions. This includes the cleanliness of the vehicle, display of licence plates and additional signage.
- 6.72 If the Private Hire Vehicle licence is suspended, revoked or not renewed, the proprietor must return the licence plates and additional signage to the Council. If the decision is appealed, this must be done immediately after the end of the appeal period (21 days from the written notification of the decision, or after any such appeal is determined or abandoned). If the suspension is immediate (under section 68 of the Local Government (Miscellaneous Provision) Act 1976) this requirement must be complied with immediately.

## **WARNING NOTICE**

- 6.73 If there is anything in the design, construction, form or working appearance of a vehicle which, in the opinion of the Council or its authorised officers or testers, renders the vehicle unfit for use as a private hire vehicle then Cumberland Council will not licence that vehicle.
- 6.74 Cumberland Council is not liable for any expense incurred in preparing or testing a vehicle which cannot be licensed for whatever reason.
- 6.75 Any unauthorised modifications made since a previous licence was issued may lead to the suspension, revocation or refusal to renew a licence.

## **Meters**

6.76 There is no requirement for a private hire vehicle to be fitted with a meter. As there is equally no prohibition on meters being fitted to private hire vehicles, any meter that is fitted must be approved and tested by the Council. The specifications for the meter are contained in Section 5. The use of the meter is detailed in the driver's licence policy and code of conduct at Section 4.

### **Duration and renewal of the licence**

6.77 The licence expires 12 months from the date of issue. Any application for renewal must be made within one month before the licence expires. If you do not apply to renew the vehicle licence in time there may be a period when you will be unable to use the vehicle as a private hire vehicle. If the renewal application is not received before the expiry of the current Private Hire Vehicle licence, it will be treated as a new application rather than a renewal and you will have to provide all the information that is required for a new application. In that case any acquired rights will be lost. A temporary licence will not be issued.

6.78 Renewals are generally dealt with by officers under delegated powers, and can be processed quite quickly. However, if there have been any changes since the last grant of the licence (e.g. if the vehicle's age or emissions exceed the policy or you or any of your joint proprietors (or directors or secretary in the case of a limited company) have been convicted of any offence, or there have been complaints or causes for concern about your behaviour) the renewal application may need to be considered by the Regulatory Sub-Committee.

6.79 The licence is issued to you but it can be transferred to another individual, partnership or limited company. Notification of any transfer must be made in writing and indicate the consent of all interested parties. An updated insurance document, V5 registration document and the applicable fee must be produced to the Council before any licence will be transferred. The Council will then issue a revised licence identifying the new licensee(s).

### **Plates and Additional Signage**

6.80 The licence plates and other additional signage provided to you by the Council must be displayed on the vehicle at all times in accordance with the diagrams contained in appendix 2. In addition, wheelchair accessible Private Hire Vehicles will be required to display "Wheelchair" stickers at all times.

6.81 If you lose or damage the plates or additional signage, replacements must be purchased from the Council.

### **Vehicle substitution/transfer**

6.82 If you wish to change the vehicle that is licensed the following procedures must be followed:

- a) You must complete an application for the “replacement” vehicle.
- b) You must pay the stated fee for a 12-month period.
- c) You must surrender the original licence. Any refund against a licence will be calculated by the Council on the number of days left on the original licence. This will take into account the period of time for which the licence has been held and the administration costs incurred, and will be subject to a minimum level of £50, below which no refund will be made.
- d) Your replacement vehicle must be presented for test and subsequently pass.
- e) Written proof of consent to the change of vehicle must be provided from all interested parties.
- f) A valid vehicle insurance certificate which clearly states that the vehicle is to be used as a private hire vehicle. All such policies must be in the name of the licensee of the vehicle.
- g) A valid MOT issued by an approved MOT test centre if older than 1 year.
- h) A V5 vehicle registration document. In case of a new vehicle the sales invoice which must show engine and chassis numbers, shall be produced at the time of application and the registration document when it is received from DVLA. The registration document must in all cases be produced within 6 weeks of the licence being issued.
- i) The complete service/maintenance history for the vehicle since the date of purchase.

### **Letting/leasing of vehicles**

- 6.83 You must not lease or let or hire a licensed private hire vehicle to any other person, other than a fare paying passenger, without first notifying the Council in writing. If you do enter into a leasing arrangement you will remain the licensee and will still be responsible for the vehicle.
- 6.84 You must notify the Council in writing of anyone no longer having an interest in the vehicle within 72 hours of the event.
- 6.85 The licence only relates to the vehicle specified in that licence, and at all times the vehicle must be owned by the licensee (or 1 person in a partnership). In the case of a vehicle which is leased to the proprietor by leasing company, the proprietor’s name must be on the DVLA registration document (V5) and the applicant must provide supporting paperwork to show the leasing arrangement.

## **Advertisements**

- 6.86 No advertisements may be displayed in or from the vehicle unless prior written approval of the Council has been obtained. Any advertising must comply with all legislation and the British Code of Advertising Practice or Council policy. Full details of the advertising policy is shown at appendix 1.

## **Maps and navigational devices**

- 6.87 Any electronic navigational device which is being used must be securely located within the vehicle and must not be operated by the driver while the vehicle is moving. Any electronic navigational device must be updated regularly. No handheld devices can be used unless they are securely located in a suitable cradle or other mounting device.

## **Fares**

- 6.88 Any fare charged is at the operator's discretion. All customers must be informed at the time of booking if the fare is to be charged using a meter.

## **Radios and other equipment**

- 6.89 Any radio, booking systems/data heads and/or GPS equipment provided must be maintained in a safe condition and any defects must be repaired promptly. The licensed private hire operator must ensure that the licence issued by Ofcom for all radio equipment used is current and valid. All equipment must only be used on the frequencies stipulated in the Ofcom licence and the licensed private hire operator must allow the Council access to inspect all equipment and Ofcom licenses.
- 6.90 Any radio, booking systems/data heads and/or GPS equipment provided must not interfere with any other radio or telecommunication equipment.
- 6.91 Where apparatus for the operation of a two-way radio, booking system/data heads and/or GPS systems are fitted, no part of the apparatus can be situated in a way which could cause accident or injury to a passenger, nor can it be placed in the rear boot compartment if LPG tanks are situated in there.

## **Signs**

- 6.92 No sign or advertisement is permitted on the vehicle, and no flag or other emblem can be flown from the vehicle, except as detailed below, unless required by law, or has been agreed by the Council in writing (see above in relation to advertisements).
- 6.93 The vehicle must not be fitted with any sign on the roof of the vehicle.

- 6.94 An adhesive sign must be permanently fixed to both rear doors.
- 6.95 You may display the name and telephone number of the company operating your vehicle in its rear windows. However, the display must be no more than 10 cm high, must not contravene the Road Traffic (Construction and Use) Regulations, and must not be illuminated.

### **CCTV and Dashcam**

- 6.96 CCTV is not mandatory but you may choose to install.
- 6.97 The data controller of a CCTV or Dashcam system fitted in a commercial/business vehicle, such as a hackney carriage or private hire vehicle, is required to register as a data controller with the ICO (Information Commissioner's Office).

### **Seating Arrangements**

- 6.98 In the vehicle all exits must be easily accessible. The seating configuration and number of passengers that can be carried is subject to assessment by the Council.

### **Incident logs**

- 6.99 The proprietor must maintain an incident log in an accessible format (either on a computer, other electronic device or a notebook). This must be used to record all incidents affecting the use of the Private Hire Vehicle including, but not limited to:
- a) collisions or accidents.
  - b) damage to the vehicle.
  - c) problems with the meter.
  - d) refusals by any driver to carry a passenger (including the date, time, location, and reason for the refusal).
  - e) any events, circumstances or incidents which lead the driver or proprietor to suspect that a passenger is involved in or is a victim of child sexual abuse or exploitation or any other abuse, modern slavery or trafficking of people, County Lines movements of drugs, any other abuse or supply of drugs, involvement in terrorism or any other criminal activity.
- 6.100 Incidents must be recorded immediately, or as soon as possible thereafter and must state the date time and location of the incident, the names (if known) of any third parties and the date and time on which the incident was recorded.
- 6.101 This log must be available for inspection by an Authorised Officer of the Council or a police constable at all times on request.

## CONDITIONS

- 6.102 The following Conditions are attached to your Private Hire Vehicle licence and must be complied with at all times. Failure to comply with conditions may lead to penalty points being imposed on your Private Hire Vehicle licence, suspension, revocation or refusal to renew the Private Hire Vehicle licence.
- 6.103 You must return your licence (and the plates and additional signage if requested by the Council) to the Council immediately if:
- a) You change your home or business address.
  - b) If the licence expires, or is suspended or revoked.
  - c) You wish to surrender your licence.
  - d) When required to do so by an Authorised Officer of the Council.
- 6.104 You must notify the Council within 72 hours of the event (including weekends and bank holidays) if you or anybody named on the licence as a joint proprietor (or any director or secretary of a limited company, or partner in a Limited Liability Partnership when the licence is held by such a body) is arrested in connection with, charged with, investigated in connection with or convicted of any criminal offence. The same requirement applies in relation to any fixed penalty notices, speed awareness courses, community protection notices or, civil injunctions.
- 6.105 If your vehicle has an accident which results in damage which may affect its safety, performance or appearance or the comfort or convenience of your passengers, you must report this to the Council within 72 hours (including weekends and bank holidays) using the Council's proforma. If you are in doubt as to whether the vehicle is affected you must notify the Council.
- 6.106 You must maintain an incident log in an accessible format (either on a computer, other electronic device or a notebook). In this you must record all incidents affecting the use of the private hire vehicle including, but not limited to:
- a) collisions or accidents.
  - b) damage to the vehicle.
  - c) problems with the meter.
  - d) refusals by any driver to carry a passenger (including the date, time, location, and reason for the refusal).
  - e) any events, circumstances or incidents which lead the driver or proprietor to suspect that a passenger or passengers is involved in or is a victim of child sexual abuse or exploitation. or any other abuse, modern slavery or trafficking



of people, County Lines movements of drugs, any other abuse or supply of drugs, involvement in terrorism or any other criminal activity.

- 6.107 Incidents must be recorded immediately, or as soon as possible thereafter and must state the date time and location of the incident, the names (if known) of any third parties and the date and time on which the incident was recorded.
- 6.108 This log must be available for inspection by an Authorised Officer of the Council or a police constable at all times on request.

## **Drivers**

- 6.109 You must notify the Council of the details (name, address and taxi drivers' licence number) of any person who is permitted by you to drive your private hire vehicle for any purpose (this does not include mechanics undertaking vehicle maintenance). This notification must be made as soon as possible and in any event within 72 hours of that permission being given. If you no longer permit that person to drive your private hire vehicle you must notify the Licensing Section in writing, using the Council's approved forms, within 72 hours.
- 6.110 Before you allow anyone to drive your private hire vehicle you must ensure that that person holds the appropriate licence. You must ensure that they understand and will observe the law, conditions and Code of Conduct that regulate their conduct and the conditions attached to the vehicle licence.
- 6.111 Note - No person may drive a private hire vehicle, unless they hold a dual or private hire drivers' licence issued by the Council. Anyone found driving a private hire vehicle without a dual or private hire drivers' licence, may be prosecuted.

## **Insurance**

- 6.112 You must ensure that a valid policy of suitable insurance for hackney carriage/private hire work is in place for the vehicle and covers anyone who drives your Hackney Carriage/Private Hire vehicle. The policy must expressly cover the use of that vehicle as a hackney carriage/private hire vehicle. The minimum expectation is a third party policy but the Council would encourage drivers to obtain comprehensive insurance due to the added benefits.

## **Production of Documents**

- 6.113 You must not obstruct any Authorised Officer of the Council or police officer. You must provide any assistance or information they may reasonably require.

- 6.114 If an Authorised Officer of the Council (or another council with whom a reciprocal arrangement is in place) or a police officer asks you, you must produce:
- a) Your licence
  - b) The private hire driver licence of any person authorised to drive your private hire vehicle
  - c) The vehicle registration document
  - d) A valid certificate of insurance
- within 5 days of the request being made.

### **Licence Plates**

- 6.115 The licence plates and additional signage remain the property of the Council and must be returned to the Council whenever the vehicle is not licensed as a private hire vehicle.
- 6.116 You must secure and display the exterior licence plates permanently to the outmost front and rear part of the vehicle using the fittings provided by the Council. The method of fixing must prevent the plates being removed without the need for tools. Both plates must at all times must be displayed so that it can be clearly read by pedestrians and road users. The licence plates must not be displayed in any window of the vehicle.
- 6.117 You must display the additional signage on the near side and off side rear doors and the internal signs issued by the Council inside the vehicle so that they are visible to front and rear passengers at all times. All wheelchair accessible vehicles must display a wheelchair sticker on the near side and off side rear doors.
- 6.118 You must display the window sticker, issued by the Council, notice referring to the complaints procedure in the vehicle where it can be clearly seen by all passengers. and copies of the complaints procedure leaflet must be available in the vehicle.
- 6.119 You must report the theft or loss of the licence plates or additional signage to the Council within 24 hours of becoming aware of the theft or loss, by email. You must then obtain duplicate licence plates and/or additional signage for which a charge will be made.
- 6.120 You must not wilfully or negligently cause or suffer any plates or additional signage on your vehicle to be concealed from public view at any time.
- 6.121 You must return the licence plates and additional signage to the Council If the Private Hire Vehicle licence is suspended, revoked or not renewed.

## Vehicle inspection

6.122 You must allow an Authorised Officer of the Council, or police officer, to inspect your vehicle at any reasonable time.

6.123 You must ensure the vehicle is presented for test in accordance with instructions from the Council.

You must produce the vehicle registration document or bill of sale/sales invoice and the service history (invoices specifying the registration number will be accepted) to the authorised examiner Council Officer at the test. If applicable, the LOLER (Lifting Operations and Lifting Equipment Regulations) must also be provided.

### **Specification to be maintained during the currency of a licence for a Private Hire Vehicle**

6.124 No change in the specification, design, condition or appearance, or any modification, conversion or alteration of the vehicle can be made unless prior written approval has been given by the Council.

6.125 The vehicle must fully comply with all relevant road traffic legislation and in addition:

- a) All doors must function correctly and be capable of being opened from the outside and within the vehicle.
- b) All opening windows must function correctly and be capable of being opened from within the vehicle.
- c) All luggage must be properly secured inside a vehicle that does not have a separate and self contained boot. Any safety grille fitted to the vehicle must be in accordance with the manufacturers recommendation.
- d) If a roof rack (or roof box) is being it must be securely fitted to the roof in accordance with the manufacturer's instructions. All luggage must be properly secured and in the case of a roof rack a waterproof cover must be fitted. Any roof box must be correctly closed before moving off.
- e) If a trailer is being used the driver must ensure that the lights on the trailer are working correctly and that the trailer plate is properly displayed on the rear of the trailer. A waterproof cover must be used to protect any luggage.
- f) Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any division which may be fitted between the drivers and passenger compartments.
- g) The vehicle and all seats, door handles and trim, and all internal and external parts of the vehicle must be maintained at all times in a clean, comfortable, safe, and mechanically sound condition and be in every way suitable for public service.

- h) The floor covering must not be torn or frayed.
- i) The vehicle must be fitted with nearside and offside exterior rear view mirrors which must be maintained in a serviceable condition
- j) The glass in the vehicle must not be replaced with glass that is different from the glass fitted when the vehicle passed the Council's vehicle test. Any unapproved (by the Council) self-adhesive material (tinted or clear) must not be affixed to any part of the glass
- k) The vehicle's power output must not be less than power output when the vehicle was new, and any replacement engine must be of the same or greater power output. In the case of a replacement engine, the Council must be notified of that within 72 hours of the fitting, and the revised V5 must be presented to the Council as soon as it is received.

### **Additional Conditions for wheelchair accessible Private Hire Vehicles**

6.126 At all times, the vehicle must carry in a safe, usable condition suitable ramps for a wheelchair user. If the alternative tail lift or some other mechanical means of access is fitted it must be maintained in a safe, functioning condition.

6.127 The driver must ensure before the commencement of the journey that the passenger is correctly seated and the wheelchair is correctly secured and the passenger is correctly restrained, and at the end of the journey must ensure that the passenger is delivered safely onto the pavement.

6.128 The door entrance and any steps must always be conspicuously marked where appropriate, to help visually impaired passengers.

6.129 All grab handles or rails must always be conspicuously marked to help visually impaired passengers.

### **Sliding doors**

6.130 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted, the child locking systems must be engaged by the driver at all times when the vehicle is in motion and carrying passengers.

### **Lost property**

6.131 The driver must search the vehicle after each hiring has been completed, and any lost property found must be recorded. If the driver knows the identity and/or whereabouts of the last passenger, they can return the property to them. If not it must be delivered to the operator within 24 hours.

### **The meter**

- 6.132 Any meter that is fitted to the vehicle must be mounted in such a way as to avoid injury to the driver or passengers in the case of any collision and where it is visible to passengers. This must be in a safe and practical position in the vehicle where all letters and figures displayed on the meter are clearly visible to any passenger.
- 6.133 If this is the arrangement for charging for a private hire journey (as agreed between the operator and the hirer), the meter must only be brought into action and the fare or charge must only commence from the point at which the hirer starts their journey.
- 6.134 If the meter fails or does not comply with the conditions, the meter must be removed from the vehicle before it is used as a private hire vehicle.

### **Signage**

- 6.135 No sign or advertisement is permitted on the vehicle, and no flag or other emblem can be flown from the vehicle, unless required by law, or has been agreed by the Council in writing.
- 6.136 No sign can be displayed on or above the roof of the vehicle.

### **No Smoking**

- 6.137 The vehicle must have at least 1 “no smoking/no vaping” sign displayed inside the vehicle clearly visible to passengers.

### **LEGAL REQUIREMENTS relating to a Private Hire Vehicle**

- 6.138 The private hire vehicle proprietor must ensure that the vehicle is always displaying the plate in accordance with the conditions (section 48 (6) of the Local Government (Miscellaneous Provisions) Act 1976).
- 6.139 The private hire vehicle proprietor must notify any transfer of the vehicle licence to another proprietor within 14 days (section 49 of the Local Government (Miscellaneous Provisions) Act 1976).
- 6.140 The private hire vehicle proprietor must present the private hire vehicle for inspection as required by the Council (section 50(1) of the Local Government (Miscellaneous Provisions) Act 1976).
- 6.141 The private hire vehicle proprietor must inform the Council where the private hire vehicle is stored if requested to do so (section 50(2) of the Local Government (Miscellaneous Provisions) Act 1976).
- 6.142 The Private Hire Vehicle proprietor must report any collision that has caused damage to the safety performance or appearance of the vehicle to the Council within 72 hours (section 50(3) Local Government (Miscellaneous Provisions) Act 1976).

- 6.143 The private hire vehicle proprietor must produce the vehicle licence and insurance if requested to do so by an Authorised Officer of the Council (section 50(4) of the Local Government (Miscellaneous Provisions) Act 1976).
- 6.144 The private hire vehicle proprietor must return the plate to the Council once you receive notice to do so after expiry revocation or suspension of the proprietors licence (section 58(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1976).
- 6.145 The private hire vehicle proprietor must ensure that the vehicle is not permitted to stop or wait on any hackney carriage stand (section 64 of the Local Government (Miscellaneous Provisions) Act 1976).
- 6.146 It is an offence to interfere with a meter (section 71 of the Local Government (Miscellaneous Provisions) Act 1976).
- 6.147 The private hire vehicle proprietor must not obstruct, fail to comply with any requirement made by, or fail to give any information to, an Authorised Officer of the Council, an authorised officer of another Council with which there is a reciprocal enforcement arrangement, or a police constable (section 73 of the Local Government (Miscellaneous Provisions) Act 1976).

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# Section 7

# PRIVATE HIRE OPERATOR LICENCES

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## **Implementation of policy**

**Operators** – Operators are licensed for 5 years. The changes proposed include the requirement for a Basic DBS unless the operator is also a licensed driver. The proposal is that the new conditions apply from 1 April 2025.

## **Local Government (Miscellaneous Provisions) Act 1976**

1. This document contains the policy, conditions and legislation relating to your Private Hire Operator licence.
2. As Private Hire Operator licences can be held by limited companies, limited liability partnerships (LLP) and conventional partnerships as well as individuals, this policy must be read to give effect to that. Any reference to a “person”, “you”, “licensee” or “operator” is taken to mean the Private Hire operator.
3. There is a power to attach conditions to Private Hire Operator licences, and the Council has standard conditions which are attached to these licences. These are contained within this document.
4. There is also a list of the main legislation that applies to Private Hire Operators.

## **Introduction**

- 7.1 The purpose of licensing Private Hire Operators is to protect the public, ensuring that passengers are not exploited, abused or otherwise affected by unlicensed and potentially unscrupulous or dangerous booking agents.
- 7.2 It is a privilege to hold a Private Hire Operator licence and licensees have responsibilities to their passengers and customers, drivers, vehicle proprietors and the public generally. The Council has been satisfied that when you applied for your Private Hire Operator licence you were a safe and suitable person to have that licence granted. In assessing that, the Council took into account your entire character and behaviour.
- 7.3 As a private operator this assessment of your character not only includes times when you are working within the private hire trade, but at all other times as well. This can include your use of social media as well as other forms of communication. The requirement to satisfy the Council that you are a safe and suitable person continues throughout the duration of the licence. If at any time your behaviour falls below the standards expected for new applications, the Council will consider taking action against that licence. This could be suspension, revocation or refusal to renew that licence. In relation to your personal actions, it is no defence to argue that your actions took place when you were not working within the private hire trade. You should appreciate that under the Council's Suitability Guidance, if the unacceptable or criminal behaviour took place whilst you were working within the private hire trade that will be viewed as an aggravating feature by the Council.
- 7.4 In many cases a Private Hire Operator is almost the first person that a visitor to the area will encounter following arrival at airport, railway station or bus station. As a consequence, the experience of booking a private hire vehicle via the operator can affect a person for their entire visit. Private Hire Operators should be aware of this and ensure that their business is conducted to the highest standard at all times.
- 7.5 Please note, this section reminds you of some of the important legal requirements with which you must comply. This is not a comprehensive list. You should familiarise yourself with the Local Government (Miscellaneous Provisions) Act 1976 and all other relevant legislation.
- 7.6 The Council has decided to attach conditions to Private Hire Operator licences that it considers reasonably necessary under the powers contained in section 55(3) of 1976 Act. The conditions are in addition to the statutory requirements of the legislation. Section 55(4) of the Local Government (Miscellaneous Provisions) Act 1976 gives the right of appeal to the Magistrates' Court to any person aggrieved by any of the conditions attached to their licence within 21 days of receipt of the licence.
- 7.7 You must understand and comply with the legal requirements relating to the Private Hire Operator licence in your name, a limited company in which you are a director or secretary, a limited liability partnership in which you are a partner, or in joint names when you are one of the named individuals. Failure to comply with the requirements may result in your Private Hire Operator licence being suspended or revoked.
- 7.8 The Council office for private hire licensing purposes is The Licensing Section:



Allerdale House  
New Bridge Road  
Workington  
Cumbria  
CA14 3YJ  
[licensing1@cumberland.gov.uk](mailto:licensing1@cumberland.gov.uk)

Cumberland Council  
Civic Centre  
Rickergate  
Carlisle  
Cumbria  
CA3 8QG  
[licensing2@cumberland.gov.uk](mailto:licensing2@cumberland.gov.uk)

Cumberland Council  
Whitehaven Commercial Park  
Moresby Parks  
Whitehaven  
Cumbria  
CA28 8YD  
[licensing3@cumberland.gov.uk](mailto:licensing3@cumberland.gov.uk)

Telephone: **0300 373 3730**

## **Sanctions against the Private Hire Operator Licence**

- 7.9 Where a Private Hire Operator breaches any legislation or condition of the licence, they may be referred to the Regulatory Sub-Committee.
- 7.10 The Council also runs its own Penalty Points Scheme as a method of enforcing the requirements for private hire operators.
- 7.11 Whenever, and in what circumstances a Private Hire Operator is brought before the Regulatory Sub-Committee, the Sub-Committee will decide each case on its merits, after hearing the facts.
- 7.12 The Regulatory Sub-Committee may also suspend or revoke the Private Hire Operator licence (see below) or impose further penalty points.

### **Power to take action against a Private Hire Operator licence**

- 7.13 Under section 62 of the 1976 Act, the Council may suspend, revoke or refuse to renew a Private Hire Operator licence on the following grounds:
- a) any offence under, or non-compliance with, the provisions Part II of Local Government (Miscellaneous Provisions) Act 1976;

- b) any conduct on the part of the operator which appears to the Council to render him unfit to hold an operator's licence;
- c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
- d) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- e) any other reasonable cause.

- 7.14 Failure to comply with most Private Hire Operator legislation is an offence and you may be liable to prosecution. In addition (irrespective of whether you were prosecuted or convicted of the offence(s)), the Council may take action against your licence which could lead to your Private Hire Operator licence being suspended, revoked or the renewal refused.
- 7.15 Failure to comply with the Council's conditions may result in your Private Hire Operator licence being suspended, revoked or the renewal refused.
- 7.16 If any information given by you on the application form for a Private Hire Operator licence proves to be false, or you fail to disclose any relevant information on your application form, the licence may be revoked, and you may also be prosecuted under section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976.
- 7.17 The Private Hire Operator licence remains the property of the Council.
- 7.18 It must be understood that a decision to grant a Private Hire Operator licence is made on the basis of the suitability of the proprietor(s) on the particular facts of the case on the day of the decision. That suitability can be lost at any time in the future and you must ensure that your behaviour remains of the highest standard to protect your Private Hire Operator licence and therefore your livelihood.

## **POLICY**

### **General**

#### **Applicants**

- 7.19 Private Hire Operator licences can be held by individuals, limited liability partnerships (LLP), conventional partnerships (two or more people in business together) or limited companies.

#### **Character of the applicant**

- 7.20 A Private Hire Operator will receive personal information from those who book a private hire vehicle through that operator. That information may be sensitive or relate to people's movements or activities and as a consequence it is essential that a Private Hire Operator satisfies the Council that they are a suitable person to hold a Private Hire Operator licence.

- 7.21 You (all partners in a conventional partnership or limited liability partnership, all directors and secretary of a limited company) must declare all criminal convictions, criminal cautions, fixed penalty notices, CBO's (Criminal Behaviour Orders) CPNs (Community Protection Notices), requirements to attend a speed awareness course, injunctions, restraining orders or any other form of sanction or restriction to the Council on your initial application.
- 7.22 All applicants (new and on renewal) will be required to provide a Basic Disclosure and Barring Service check at their own expense, as part of the application process. The check must be dated within 1 month of the date of application. The same will be required of all partners in a limited liability or conventional partnership and all directors and the secretary of a limited company when the application is made, or the licence is held, by a limited liability or conventional partnership or limited company. If any new or replacement partner, director or secretary or is appointed or joins, you must notify the Council within 7 days, and that notification must be accompanied by a Basic DBS Certificate in relation to that person dated within 1 month of the date of notification. This does not apply if a proprietor is a licensed driver with the Council and already holds a valid enhanced DBS certificate and subscribes to the update service.
- 7.23 The application will then be considered in the light of the Council's Previous Convictions Policy.
- 7.24 In addition, the Council will take into account the compliance history in relation to previous hackney carriage or private hire licences held by the applicant or any partners in a partnership, all directors and secretary of a limited company and any limited company itself.
- 7.25 To enable the Council to make a decision as to whether or not an applicant is a suitable person to be granted or continued to hold a private hire of licence, the following test will be used:

"Without any prejudice, and based on the information before you, would you be comfortable providing sensitive information such as holiday plans, movements of your family or other information to this person, and feel safe in the knowledge that such information would not be used or passed on for criminal or unacceptable purposes?"

### **Certificate of Good Conduct**

- 7.26 As DBS checks do not cover convictions in countries outside the United Kingdom, any applicant who has lived abroad for any period of more than 6 months from the age of 18 must also provide a Certificate of Good Conduct from the appropriate Embassy or High Commission, which should be translated into English and certified by a suitably qualified translator. The Council may undertake checks to ensure the authenticity of any such documentation. If this cannot be provided then the application will be refused. More information about this can be found on the Home Office website.

## **Convictions**

- 7.27 If you, any partner in a limited liability partnership or conventional partnership (this includes a limited company), or any director or secretary of a limited company is arrested in connection with, charged with, investigated in connection with or convicted of any criminal offence, that must be reported to the Council within 48 hours (including weekends and bank holidays). The same requirement applies in relation to any criminal cautions, fixed penalty notices, CBO's (Criminal Behaviour Orders) CPNs (Community Protection Notices), requirements to attend a speed awareness course, injunctions, restraining orders or any other form of sanction or restriction which you are subject to.

## **Maintenance of the Licence and Renewals**

- 7.28 Every year for the duration of your licence, you must provide a new Basic DBS certificate, not more than 1 month old, for yourself (if a sole operator) or all partners in a limited liability or conventional partnership and all directors and the secretary of a limited company if the licence is held, by a limited liability or conventional partnership or limited company. This/These must be provided to the Council within 2 weeks of the anniversary of the grant of your licence. Failure to do so may lead to action being taken against your licence. This does not apply if a proprietor is a licensed driver with the Council and already holds a valid enhanced DBS certificate and subscribes to the update service.
- 7.29 A valid application for the renewal of a licence, including all the required original documentation, must be made within one month of the expiry of the current licence. If the licence expires then it will be treated as a new application. A valid application is one which is complete in all respects and can be processed immediately. If the application is not made in time to enable all the relevant processes to be completed before the expiry of the current Private Hire Operator licence, there will be a period of time during which you will be unlicensed and cannot make a provision for the invitation of bookings for a private hire vehicle. Operating Private Hire drivers and vehicles without a valid licence is a criminal offence. A temporary licence will not be issued.
- 7.30 Where a Private Hire Operator licence is found to have been obtained using false or incomplete information enforcement action may be taken which may result in the suspension or revocation of your licence.

## **Identity and Right to Work in the UK**

- 7.31 To prove their identity, all applicants (including all partners in a partnership and all directors and secretary of a limited company) must provide an authenticated form of photographic identification (for example photographic driving licence or national identification card). Copies are not acceptable.
- 7.32 Applicants from outside the UK must provide:
- a) a passport with a valid stamp from the Home Office to say that they have leave to remain in the Country indefinitely; or
  - b) a passport with a valid UK visa, which allows the holder to work as a Private Hire Operator (student visas will not be accepted).

- 7.33 A Private Hire Operator licence will only be granted until the expiry of the visa and will only be renewed or extended with the production of the passport and another valid visa issued by the Home Office. The Council reserves the right to verify, at any time, a Licensee's entitlement to remain in the UK. The Council will not accept letters issued by the Home Office when a visa application is pending.
- 7.34 To comply with the Immigration Act 2016, the Council is required to check eligibility to live and work in the UK for all applicants for driver and operator licences. Applicants will be required to provide evidence of this on request. Examples of acceptable documentation include a British passport, EU passport with the right to stay and work in the UK, permanent residence permit, work permit with a passport with correct authorisations, a UK birth certificate together with an official document giving the NI number such as a P45 or P60, or a biometric immigration document indicating a right to stay indefinitely in the UK or a right to do the work in question.
- 7.35 For applicants with a limited time to remain in the UK, the Private Hire Operator's licence will only be granted for the period of permission to remain, and may only be granted for a shorter period. The Private Hire Operator licence will be extended should the applicant's right to remain in the UK be made permanent.
- 7.36 If an applicant has extended leave to remain (pending a decision) the Private Hire Operator licence cannot be granted for more than six months, and again may only be granted for a shorter period. The Private Hire Operator licence will be extended should the applicant's right to remain in the UK be made permanent.
- 7.37 If a Private Hire Operator licence holder loses the right to remain in the UK during the currency of a licence, the Private Hire Operator licence ceases to have effect and the Private Hire Operator licence (and badge for drivers if applicable) must be returned within 7 days.

## **Tax Conditionality**

- 7.38 Existing licensees applying for the renewal of a licence must obtain their unique 9 character code from His Majesty's Revenue and Customs (HMRC) and provide this to the Council. If this cannot be provided the application cannot proceed.
- 7.39 The Council will advise new applicants of the need to register with HMRC for tax and must sign an acknowledgement that they have received this information.

## **Use of the Licence**

### **Operator's Base**

- 7.40 Your Private Hire Operator licence relates to one or more addresses (bases) within the Council area. Every address that is being used will be detailed on the Private Hire Operator licence. The licence will not apply to any address used that is not detailed on

the licence and an operator could face prosecution under the Local Government (Miscellaneous Provisions) Act 1976, section 46(1)(d) and/or face other enforcement action.

- 7.41 If you have more than one operating office or base within the Cumberland Council area that does not mean that you require a separate Private Hire Operator licence for each premises, but you must submit a list to the Council containing all the addresses from which you run your business, and all addresses will be detailed on the Private Hire Operator licence. You must inform the Council within 24 hours of any change of any address (ceasing to use an address, moving to a new address or adding an additional address).
- 7.42 Planning permission or a Certificate of Lawful Existing Use or Development for the use or change of use of premises, whether home or commercial, is not required before an application can be made for a Private Hire Operator licence. However it may be unlawful to use those premises as an operator's base and advice should be sought from the Council's Planning Department (or Lake District National Park Authority) if required.
- 7.43 Anyone who is making a provision for the invitation of bookings (evidenced by a private hire office or base) in more than one local authority area will be required to hold a Private Hire Operator licence with the local authority in each of those areas.

### **Drivers and Vehicles**

- 7.44 As a Private Hire Operator, you must ensure that any private hire driver or private hire vehicle operated, employed or used by you holds a current private hire driver or vehicle licence issued by the Council. You must hold the Private Hire Operator licence for the duration of the time that you operate that driver or vehicle.
- 7.45 If at any stage you propose dispatching a public service vehicle (PSV) to fulfil a booking, you must make the customer aware that the driver of that vehicle may only hold a PCV driver's licence and therefore not have been subjected to the same checks (criminal records and character) as a private hire driver.

### **Staff**

- 7.46 As a Private Hire Operator, you must maintain a record of all staff (employees, independent contractors) and others engaged by or utilised by you as a Private Hire Operator.
- 7.47 You must create, maintain and apply a policy in relation to previous convictions of your staff. It is suggested that this policy should be consistent with and promote the objectives of the Council's Previous Convictions Policy. You should apply this policy to all staff who are involved in making bookings for or dispatching private hire vehicles, or who have access to your operator's records, and you should not engage any person in contravention of that policy unless there are truly exceptional circumstances. The reasons for such a decision must be recorded in your staff records.
- 7.48 You must require all staff to notify you within 48 hours (including weekends and bank holidays) if they are arrested in connection with, being investigated for, charged with

or convicted of any criminal offence. The same requirement applies in relation to any fixed penalty notices, speed awareness courses, community protection notices, civil injunctions that they receive or have to attend. You must then determine what action to take in relation to that staff member. You must also notify the Council of the event and the action that you have taken within 48 hours of your decision and record that in the staff records.

- 7.49 All such records of staff must be available for inspection by an Authorised Officer of the Council or police constable at any reasonable time. This condition only applies to staff whose employment commences on or after 1<sup>st</sup> April 2025.

## **Booking Records**

- 7.50 You must create and maintain records of all bookings received for private hire vehicles as detailed in the conditions of licence. These records must be maintained for the 12 months and must be available for inspection by an Authorised Officer or police constable at any reasonable time. You must inform the Council of the method that you intend to use to record this information. Depending on the scale of your operation this could be handwritten records (in a bound book with sequentially numbered pages) or a computerised system. In either case the records must not be capable of being altered after they have been compiled.

## **Standards of service**

- 7.51 You must provide a professional and reliable service to customers at all reasonable times.

## **Complaints**

- 7.52 You must maintain and utilise a comprehensive complaints process.

## **Insurance**

- 7.53 You must maintain public liability insurance for all premises that are open to the public.

## **CONDITIONS**

- 7.54 In these conditions, which are imposed under the provisions of section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976, unless otherwise indicated;

“the Council” means Cumberland Council

“You” means the operator as holder of Private Hire Operator licence issued by the Council under section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

- 7.55 The following Conditions are attached to your Private Hire Operator licence and must be complied with at all times. Failure to comply with conditions may lead to penalty points being imposed on your Private Hire Operator licence, suspension, revocation or refusal to renew the Private Hire Operator licence.
- 7.56 You must return your Private Hire Operator licence to the Council immediately if:
- a) You change your home or business address.
  - b) You add or alter any addresses detailed on the Private Hire Operator licence.
  - c) If the Private Hire Operator licence expires, or is suspended or revoked.
  - d) You wish to surrender your licence.
  - e) When required to do so by an Authorised Officer of the Council.
- 7.57 You must notify the Council within 48 hours of the event (including weekends and bank holidays) if you (or any partner in the case of a partnership or director or secretary of a limited company) is arrested in connection with, charged with, investigated in connection with or convicted of any criminal offence. The same requirement applies in relation to any fixed penalty notices, speed awareness courses, community protection notices, civil injunctions that you receive or have to attend.

## **General**

### **Manager**

- 7.58 You (unless you are a single person operator) must identify a person as the individual with day-to-day managerial responsibility (referred to in these conditions as “the manager”), and notify the Council of their identity and contact details, including a mobile telephone number. The manager will be the first point of contact between the Council and the Private Hire Operator. You must identify another person as a deputy for holiday and sickness cover and the identity of the deputy, together with their contact details including a mobile telephone number must also be provided to the Council. You must ensure that it is clear to all managers and deputies who is responsible for discharging that responsibility at any particular time. All references to the manager include references to the deputy when they are acting in that capacity.

### **DBS Checks**

- 7.59 You (where the operator is a partnership or limited company, all partners or directors and secretary of the company) must submit a Disclosure & Barring Service basic disclosure (dated within one month of the submission) on or before the anniversary of the granting of the Private Hire Operator licence. Failure to do so will result in the Private Hire Operator licence being suspended until such time as the DBS certificate is provided.
- 7.60 The cost of these checks will be covered by you.
- 7.61 Where you (or any partners or directors and secretary of the company where the operator is a partnership or limited company) hold a dual driver licence you are not



required to submit a yearly basic disclosure, but the requirement will continue to apply to any partners or directors of a company who do not hold a driver's licence.

## **Staff Policy**

- 7.62 Where you engage or intend to engage (whether as employees, workers or independent contractors persons involved in taking bookings or the dispatch of vehicles, it is recommended that you produce and apply a policy on the employment of ex-offenders in those roles. It is suggested that this policy should be consistent with and promote the objectives of the Council's Previous Convictions Policy. The policy must be available for inspection on request of an Authorised Officer of the Council. Failure to act in accordance with this requirement, and any subsequent engagement of a person who falls outside the Council's Previous Convictions Policy standards will lead to consideration by the Council as to whether you as operator remain a safe and suitable person.
- 7.63 The Private Hire Operator must require that all staff engaged in taking bookings or dispatching vehicles to report to them within 48 hours of any conviction, binding over, caution, warning, reprimand, fixed penalty notice, civil injunction or arrest for any criminal matter whilst they are employed in this role.
- 7.64 You must view a basic DBS certificate (dated within one month of the check) of any staff that have access to booking records or dispatch vehicles. This condition only applies to staff whose employment commences on or after 1<sup>st</sup> April 2025.
- 7.65 You must maintain a register of all such staff which must include a record of when each DBS check has been undertaken. This register must be available for inspection by an Authorised Officer of the Council upon request. The register should include the following:
- a) the date that person's employment in that role commenced.
  - b) the date the Private Hire Operator checked the DBS certificate.
  - c) the name of the person that checked the DBS certificate.
  - d) the date the person ceased to perform that role.
- 7.66 The register must be retained for 12 months in line with the booking records.
- 7.67 Should an employee cease to be on the register and later re-enter the register, a new basic DBS certificate (or use of the Update Service) must be provided to the Private Hire Operator.
- 7.68 You must require all staff to notify you within 48 hours (including weekends and bank holidays) if they are arrested in connection with, being investigated for, charged with or convicted of any criminal offence. The same requirement applies in relation to any fixed penalty notices, speed awareness courses, community protection notices, civil injunctions that they receive or have to attend. You must then determine what action to take in relation to that staff member. You must also notify the Council of the event and the action that you have taken within 48 hours of your decision and record that in the staff records.
- 7.69 You must ensure that any outsourced booking and dispatch functions have adequate safeguarding measures in place for the protection of children and vulnerable adults.

You must have obtained evidence of this from the outsourced firm/company before outsourcing these functions.

## **Vehicle and driver licences**

- 7.70 You must inspect, on a regular basis, all the private hire vehicle licences and driver licences of vehicles and drivers operated, engaged or otherwise utilised by you.

## **Records**

- 7.71 You are required to keep records of bookings received and journeys undertaken under section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 (referred to hereafter as the “booking records”) and the following are the conditions relating to those records,
- 7.72 Booking records must be recorded in English and kept in a suitable book or in any other manner as approved by the Council.
- 7.73 You must ensure that, the following details of every private hire booking that you invite or accept are recorded before the commencement of each journey:
- a) the name of the passenger or other identifying features;
  - b) the time of the request
  - c) the time the vehicle is required
  - d) the pick-up point
  - e) the destination (if known at that time)
  - f) the name of the driver
  - g) the driver’s licence number
  - h) the vehicle registration number of the vehicle
  - i) the vehicle licence number
  - j) the name of any individual that responded to the booking request
  - k) the name of any individual that dispatched the vehicle.
- 7.74 You must keep these records for a period of not less than 12 calendar months from the date of the entry.
- 7.75 You must also keep records of all vehicles that you operate. These details must include:
- a) details of the proprietor(s)/licensee.
  - b) registration number.
  - c) any radio call sign used.
  - d) maintenance history of the vehicle.

- 7.76 You must keep these records for a period of not less than 12 calendar months from the date that you cease operating that vehicle.
- 7.77 You must also keep records of the names and addresses of all licensed drivers that you use. You must notify the Council within 48 hours (including weekends and bank holidays) of the following:
- a) when any driver begins working for, or being available to be operated by you.
  - b) when any driver's activity above detailed ceases.
  - c) any change of address of any driver in service.
  - d) if you become aware that any driver is suffering from any illness, disability or condition which may affect the driver's ability to safely carry out their duties.
- 7.78 If at any time you become aware of any reason which would or may prevent a driver from safely carrying out their duties (including but not limited to illness or disability) you must immediately cease using that driver until such time as the driver can demonstrate that they can drive a private hire vehicle without risk to the public.
- 7.79 You must keep these records for a period of not less than 12 calendar months from the date when you cease to be engaged or otherwise use the driver to drive private hire vehicles.
- 7.80 All records and retained licences must be available for inspection at any reasonable time by an Authorised Officer of the Council or a police constable.

### **Standards of Service**

- 7.81 You must provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- 7.82 In particular you must (but this is not an exhaustive list):
- a) Ensure that all private hire vehicles that have been booked, attend at the appointed time and place unless delayed or prevented by reasonable cause.
  - b) Ensure the vehicle dispatched is a Council licensed private hire vehicle and the driver of the vehicle is a Council licensed private hire driver.
  - c) Keep any premises which you control and which are open to the public clean, adequately heated, ventilated and lit.
  - d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
  - e) Ensure that the correct licences are in place for any radio equipment.
  - f) Ensure that it is established at the time of booking how many passengers are to be carried and that the vehicle dispatched to fulfil the booking has an adequate number of passenger seats.

### **Ride Sharing/Car-pooling**

- 7.83 If the journey is to be part of a ride sharing/carpooling journey, that must be made clear to the hirer before the booking is accepted, and you must ensure that individual hirers explicitly consent to that ridesharing/carpooling arrangement.

## Public Service Vehicles

- 7.84 Public Service Vehicles (PSVs) may not be used to undertake a private hire vehicle booking, unless with the informed consent of the hirer. To obtain such informed consent you must make the customer aware that the driver of that vehicle may only hold a PCV driver's licence and therefore not have been subjected to the same checks (criminal records and character) as a private hire driver.

## Complaints

- 7.85 You or the manager must initiate an investigation into any complaint received from the public within 48 hours from receipt of the complaint.
- 7.86 You must maintain a register of complaints (digital or hard copy), which must include the following information:
- a) Complainant's name, address/email address and telephone number
  - b) Details of the complaint
  - c) Time and date of the alleged incident
  - d) Time and date the complaint was received by you or the manager
  - e) How and when the complaint was received e.g. phone, email, etc.
  - f) Name of person that received the complaint
  - g) Name of the alleged perpetrator
  - h) If the complaint was referred to the Council – time and date of when it was referred and by whom
  - i) Details of the action taken to resolve the complaint and by whom
  - j) Date the complaint was resolved.
- 7.87 A copy of the complaints register must be available for inspection upon request of an Authorised Officer of the Council. The records must be retained for a period of 12 months.
- 7.88 You must, on receipt of a complaint concerning a licensed driver, immediately notify the complainant of their right to direct their complaint to the Council.
- 7.89 You must ensure that details of how a customer can contact yourself as the Private Hire Operator in the event of any complaint relating to a booking or other contract, are displayed on your website, booking app and (in the absence of online booking platform), at any booking office.
- 7.90 Where a complaint is received by the Council, you must comply with any reasonable request for information and/or follow any reasonable directions/instructions made by an Authorised Officer or police officer in respect of the complaint.
- 7.91 You must notify the Council, in writing or by email, within 48 hours if you receive a complaint about a driver operated by you when it has been identified that the complaint relates to any of the following:
- a) allegations of sexual misconduct (including the use of sexualised language).
  - b) racist behaviour.
  - c) violence (including verbal aggression).
  - d) dishonesty including theft.
  - e) Equality breaches.

- f) any other serious misconduct (including motoring related for example dangerous driving or drink driving).

### **Change of Address**

- 7.92 You must notify the Council in writing of any change of address (including any address or addresses from which you operate or otherwise conduct your business as a Private Hire Operator) immediately.

### **Convictions**

- 7.93 You must notify the Council in writing if you have been convicted or cautioned for any offence, been arrested or are under investigation for any offence, received a fixed penalty notice, Community Protection Notice (CPN), Criminal Behaviour Order (CBO), been required to attend a speed awareness course or there have been a complaint or concerns about your behaviour or other matter imposed on you, which might affect your continuing safety within 7 days. The same requirement applies to any partners in the case of a partnership holding an operator's licence and to any directors and secretary of any limited company in the case of a limited company holding a Private Hire Operator licence. The same requirement applies to any manager or deputy manager.

### **Advertising**

- 7.94 You must not display or permit to be displayed on or from your premises or from any other place, any sign or notice which consists of or includes the word "Taxi" or "CAB" whether in the singular or plural or any word of a similar meaning unless you also take bookings for hackney carriages.

### **Insurance**

- 7.95 Any premises that you control and are open to the public must be covered by Public Liability Insurance.
- 7.96 This insurance policy (or a summary) must be clearly displayed at the premises where it can be seen by the public.
- 7.97 You must ensure that at all times there is in force a policy of insurance covering private hire use or such security as complies with the requirements of Part VI of the Road Traffic Act 1988 for all private hire vehicles operated.
- 7.98 You must ensure that where a vehicle is covered under a fleet insurance policy, drivers are aware of the content of the policy, including its limitations and exclusions. You must keep a record, signed by the driver, within each individual's record file when this has been completed. A copy of any individual's records must be produced, on request, to any Authorised Officer of the Council.

## **Personal data**

- 7.99 You must be registered with the Information Commissioner's Office as you will be holding personal data for customers and any staff that you engage.
- 7.100 You must report any loss of personal data, whether by theft or otherwise, to the Council in writing within 24 hours of the loss or discovery of the loss (whichever is sooner), and also immediately to the police in the event of suspected theft. You may also need to report any such incident to the Information Commissioner's Office, for more information see [here](#).

## **Working hours**

- 7.101 You must take steps to ensure that drivers do not work excessively long hours.

## **Display of Conditions**

- 7.102 You must display a copy of these conditions in any premises which you control and are open to the public. In addition, copy of the conditions attached to vehicle and driver licences must be available for inspection on request by a member of the public.

## **Subcontracting**

- 7.103 If you subcontract any booking to another Private Hire Operator licensed in England (including Greater London but excluding Plymouth), Wales or Scotland, you, as the operator who initially accepted the booking, remain liable under the contract deemed by virtue of section 56(1) of the 1976 Act.

## **Information**

- 7.104 You must understand that a booking that has been accepted by whatever means, is a contract and failure to uphold that (whether by non-attendance by the vehicle, late attendance or any other shortfall in performance) may lead to a claim for breach of contract. The accurate recording of booking details is a means of protecting you if such circumstances arise.
- 7.105 FAILURE TO ADHERE TO ANY OF THE CONDITIONS OF THIS LICENCE MAY RESULT IN ENFORCEMENT ACTION. ANY ENFORCEMENT ACTION TAKEN WILL BE IN ACCORDANCE WITH THE COUNCIL'S ENFORCEMENT POLICIES.

## **LEGAL REQUIREMENTS relating to a Private Hire operator**

- 7.106 A Private Hire Operator must only operate private hire vehicles and private hire drivers licensed by the same Council as the operator (section 46(1)(e) of the Local Government (Miscellaneous Provisions) Act 1976).

- 7.107 A Private Hire Operator can subcontract a booking to another private hire operator licensed in England (including Greater London but excluding Plymouth), Wales or Scotland but remains liable to the hirer under the contract (section 55A of the Local Government (Miscellaneous Provisions) Act 1976).
- 7.108 A Private Hire Operator who initially accepted booking from a hirer remains liable under that contract even if they do not ultimately fulfil that contract as a result of a subcontract (section 56(1) of the Local Government (Miscellaneous Provisions) Act 1976).
- 7.109 A Private Hire Operator who accepted a booking must maintain records of that booking in accordance with the conditions attached to the Private Hire Operator's licence and must produce those records if requested to do so by an Authorised Officer of the Council or police constable (section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976).
- 7.110 A Private Hire Operator must maintain a record of all vehicles operated by him and must produce those records if requested to do so by an Authorised Officer of the Council or police constable (section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976).
- 7.111 A Private Hire Operator must produce their Private Hire Operator licence if requested to do so by an Authorised Officer of the Council or police constable (section 56(4) of the Local Government (Miscellaneous Provisions) Act 1976).
- 7.112 A Private Hire Operator must not refuse to accept a booking for a private hire vehicle because the passenger will be accompanied by an assistance dog and no additional charge can be made for any such booking (section 170 (1) & (2) of the Equality Act 2010).



# Vehicle Advertising Policy

**Associated with an application for a Hackney Carriage or Private Hire Vehicle Licence within the Cumberland Area.**

Version 1.2 (2025)

Licensing Department

Cumberland Council



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## **Introduction**

1. The Council recognises the need for the use of advertising on the body of Hackney Carriage and Private Hire Vehicles both as a way of vehicles subject to pre booking being readily identifiable by customers and commercial advertising is potentially a valuable source of additional income for licensees.
2. In line with the Conditions of Application, the Licensing Department must consent to all advertising which is to be displayed on a licensed vehicle including any driver's name, company names and contact details. For the avoidance of any doubt the words sign and advertisement shall apply to any signage, advertising, notice or mark, illumination or similar feature regardless of size and positioning on the vehicle. It is not to include those permitted by law and prescribed in the Conditions of Application (i.e. 1. roof signs and 2. door stickers provided by the Council).
3. Consent to such advertisement will be granted in line with the guidelines outlined in this policy.
4. This policy will have effect from 1 April 2025 and relates only to any application

## **Application for Consent**

5. Applications must be made in writing to the Licensing Department and be accompanied with the following:
  - 5.1 A non-refundable fee of per application towards the required administration costs in assessing the application and arriving at the decision.
  - 5.2 A detailed graphical representation including dimensions of the proposed advertisement, colour and a representation of where the proposed advertisement is to be placed. The quality of submissions must be of an acceptable standard. Full details of the advertising proposals must be provided including the specific vehicles the advertisement is proposed for.
  - 5.3 A contact name and telephone number of the organisation to be represented in any sign or advertisement.
6. All incomplete applications will be rejected and returned with the fee.
7. Where the Licensing Department requires further information over and above that outlined in paragraph 5, the applicant will be given a period of 28 days to oblige the request. Failure to comply within this time will lead to the application being rejected and the fee returned
8. Once granted, the licence holder of a vehicle carrying any advertisement shall ensure that the letter of approval from the Council to display the advertisement on the vehicle, shall be kept at all times within the particular vehicle. It shall be

available for inspection by an Authorised Officer, the Council's appointed testing station or Police Officer on request. This approval will also be checked at every occasion the vehicle is tested at the Council's appointed testing station. Any discrepancies between the approved advertisement and what is displayed on the vehicle will be reported back to the Licensing Department and further action may be taken.

9. The Licensing Department will consider each application on its own merits and determine accordingly.
10. All advertisements must comply with the British Code of Advertising Practice, Sales Promotion and Direct Marketing (The Code). Applicants should refer to The Code itself for a full explanation of the guidelines and it is the responsibility of the agency or individual seeking the Local Authority's approval to ensure that they do so.
11. No signs or advertisements will be consented where they could potentially cause a distraction or be of a danger to other road users.
12. Each proposal will be considered on its merits but the following advertisements will not be approved:
  - 12.1 Those with political, racial, religious, sexual or controversial texts;
  - 12.2 Those for escort agencies, gaming establishments or massage parlours;
  - 12.3 Those displaying nude or semi-nude figures;
  - 12.4 Those likely to offend public taste (depicting violence, obscene or distasteful language or causing offence on the grounds of race, religion, sex, sexual orientation or disability);
  - 12.5 Those which have any reference to alcohol, tobacco/cigarettes and drugs (advertisements promoting alcohol licensed premises will be considered separately);
  - 12.6 Those promoting discounted fares;
  - 12.7 Those advertising jobs;
  - 12.8 Those which detract from the integrity and/or identity of the vehicle;
  - 12.9 Those which seek to advertise more than one company/service or product (this applies only to those which advertise anything other than the taxi business).
13. No vehicle shall be permitted to bear any sign or advertisement which will be perceived as dishonest or is likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise
14. No sign or advertisement shall be located on, or next to any sign or advertisement required by law or local condition or in such close proximity that the sign is obscured for example, the Council licence plate or the cars registration plates.

15. The holder of a vehicle licence shall not remove or obscure any warning signs, safety messages or any other information or signage displayed on a licensed vehicle that is present when it is supplied by the manufacturer and that is aimed at assisting passengers to identify the type or features of the vehicle.
16. A vehicle shall not be permitted to bear any sign or advertisement which will obstruct lights, mirrors or any safety feature of the vehicle.
17. The Council shall have no responsibility to the organisation represented or the vehicle owner, operator, proprietor, driver or any other person should any situation occur whereby the display of the advertisement has a detrimental effect on that person, or on that person's name or reputation.
18. Materials used for advertisements must be professional in appearance and manufactured to a high standard so as to be durable and not easily defaced, soiled or damaged or detached. Advertisements must be affixed directly to the body of the vehicle. Reflective material is not to be used.

### **Maintenance of Consented Advertisement**

19. The Vehicle Licence holder will remain responsible for the consented advertisement for the lifetime of the vehicle licence. This must be highly maintained to ensure there is no damage, fading, peeling, bubbling and that it remains free from defect.
20. To ensure the high standard required in clause 19, the Council will allow for the consented advertisement to be replaced in identical design, size, content and location on the vehicle whenever necessary without the requirement of any further consent.

### **Unconsented Advertisement**

21. Unconsented advertisement refers to such adverts without consent, those which deviate from the consented design, size, content and location on the vehicle and those which do not comply with clause 20.
22. Any vehicle bearing an unconsented advertisement will be given 28 days to remove the said advertisement, be granted consent as a result of a successful application or bring the advertisement in line with the previously obtained consent.
23. Failure to comply with the terms of clause 22 will lead to the immediate suspension of the vehicle licence until a time in which the clause 22 is complied with.

### **Change to Consented Advertisement**

24. As stated in clause 20 all changes to a consented advertisement will require a new application and further consent from the Licensing Department.

### **Removal of Consented Advertisement**

25. Notification must be given to the Licensing Department within 28 days of the removal of any advertisement.

### **If a Vehicle Bearing Advertisements Becomes Unlicensed**

26. Should the vehicle become unlicensed for any reason all advertisements which depict or would lead someone to believe the vehicle is a Hackney Carriage or Private Hire Vehicle must be removed immediately

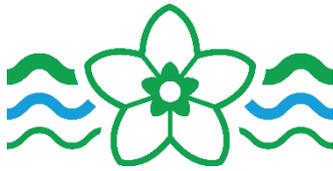
### **Challenging a Decision**

27. Should you wish to appeal any decision made regarding advertising on your vehicle, this should be made in writing to the Licensing Manager within 28 days of the decision.

### **Poppy Decal on Vehicles**

28. A poppy sticker or other relevant representation on a vehicle is a sign of respect and is not an advertisement. For this reason, permission will not be needed to display a poppy or other relevant representation on a vehicle for remembrance Sunday.

29. Any other appropriate occasion will be determined on an individual basis.



# Cumberland Council

## Taxi & Private Hire Branding

You will receive 2 plates, door signs and an internal sign along with your licence for a Hackney Carriage or Private Hire vehicle. Replacement plates and signs will be chargeable.

### Licence Plate (these examples are for illustration purposes only)

The plates should be securely fastened to the **front and rear** of your vehicle in accordance with the conditions of the licence. You should ensure that the plates can be easily removed if required by or on the instruction of an Authorised Officer. You will notice that the plates contains an expiry date and you will receive new plates on renewal. The prefix of AL, CA, CO, P, PH, PHV will remain in use until we have a single database. At this time new licence plates will be issued upon renewal/transfer.



### Door Signs



You will receive two door signs. These should be fitted to the rear doors of the vehicle. If you have advertising on the rear doors the door signs can be fitted to the front doors.

We will transition towards not having a prefix of AL, CA, CO on the door sticker. Door stickers with these will remain valid until the condition of the door sticker requires replacement.

Private Hire vehicles will be provided with a set of signs and should any operator wish to have their own signage produced with their company details then artwork can be provided in order to do so.

The format must remain the same and no deviation is allowed.



**Internal sign** - You are provided with a sign in a self-adhesive pouch which should be fitted to the nearside rear window with the contact details for your Licensing Department facing the inside of the car.

**Table of fares** - A newly branded table of fares will be issued upon grant or renewal of all HC vehicles. **Currently under review**