



BARNSLEY METROPOLITAN BOROUGH COUNCIL

This matter is not a Key Decision within the council's definition and has not been included in the relevant Forward Plan

Report of Executive
Director, Development,
Environment and Culture

REVIEW OF TAXI LICENSING IN BARNSLEY

1. Purpose of Report

- 1.1 The purpose of this report is to inform Members of the outcome of the fundamental review of hackney carriage and private hire services provided by the Council
- 1.2 To seek approval for a series of recommendations that will ensure high quality and cost effective services to the taxi trade and general public in Barnsley

2. Recommendations

It is recommended:

- 2.1 **The Council regularises its original adoption of Part II of the Local Government (Miscellaneous Provisions) Act 1976 for the whole of the Metropolitan Borough of Barnsley;**
- 2.2 **That Members adopt the licensing conditions for Private Hire Drivers, Private Hire Vehicles, Hackney Carriage Drivers, Hackney Carriage Vehicles and Private Hire Operators as attached at Appendix C(i), C(ii), C(iii), C(iv) and C(v);**
- 2.3 **That Members adopt the Hackney Carriage and Private Hire Driver Convictions Policy as attached at Appendix D(i);**
- 2.4 **That Members approve the code of conduct document attached at Appendix D(ii);**
- 2.5 **That taxi licensing application processes be revised to deliver the changes listed at Appendix E, including:**
 - **Drivers to be given the option of one or three year licences**
 - **Three year licences to be tied in with the current Criminal Records Bureau (CRB) renewal timescales**
 - **Dual licences to be offered to all applicants**
 - **The current requirement for drivers to undertake the Driving Standards Agency's (DSA) test will be reviewed, including whether there are suitable alternatives through the use of local DSA driving instructors.**

- Operator licences should be granted for a period of 5 years, in line with operator CRB checks.
- 2.6 That the vehicle licensing and testing process be revised to deliver the changes listed at Appendix E, including:
- A risk-based approach to vehicle testing be introduced
 - Vehicle testing should no longer be limited to Smithies Depot, but should allow for vehicles to be tested at suitable Vehicle and Operator Services Agency (VOSA) test stations.
 - MOT test certificates will be issued rather than the current certificates of compliance.
- 2.7 The Trade Liaison Group (TLG) should continue with clear terms of reference, including:
- Meetings to take place bi-monthly
 - An annual schedule to be produced detailing regular matters that need to be considered by the TLG and outlining when co-opted members of the group will be invited to meetings – e.g. Finance Officer to present annual accounts.
 - All terms of reference, policies, procedures, conditions and processes to be captured in a Taxi Licensing Manual, appropriately controlled and available to all stakeholders.
 - Regular attendance by key stakeholders such as the Police, Smithies Depot Manager, Highways Services and Planning Services, ideally on a twice yearly basis.
- 2.8 The BMBC website will be fully utilised as a vehicle for communications between the Council, the trade and the public, particularly for consultation and to report important items of information.
- 2.9 The Licensing Board should continue to hear taxi licensing matters, subject to consideration of the potential for officer panels in 12 months time.
- 2.10 The current limit on Hackney Carriages should be maintained, subject to further review in 2014
- 2.11 Taxi licensing policies, procedures, processes, and the analysis of costs and fees, will be reviewed every three years, unless significant changes occur to legislation or relevant government guidance.
- 2.12 Fees will be reviewed at the earliest opportunity, once the final recommendations resulting from this report are delivered. This should take place in time to implement a revised fee structure for 2014/15.

3. Introduction

- 3.1 Following an objection to the BMBC accounts by the taxi trade, the District Auditor recommended in his letter dated 23rd August 2011 that a fundamental review of the taxi trade in Barnsley be undertaken.
- 3.2 The Authority accepted these recommendations at the full Council meeting on 3rd November 2011 and agreed that they would be considered, and a review carried out, over a period of 9 months or possibly longer if circumstances dictated. It was agreed that regular reports will be taken back to both the Audit Committee and Licensing Board.
- 3.3 Firstly, the Council confirmed that it has not over-recovered fees from the taxi trade in recent years and therefore there is no need to consider any refunds.
- 3.4 Following this, a series of meetings have been held between officers from BMBC and the taxi trade (the Taxi Liaison Group – TLG) to discuss how the review of taxi services should be organised and delivered.
- 3.5 The TLG quickly agreed that the best way to deliver a meaningful taxi review that would meet the requirements of the District Auditor, and would result in improvements to service delivery, would be to agree a framework within which the review would take place.
- 3.6 To this end, eight key themes were agreed, with a delivery deadline of September 2012. The eight key themes were put together based on key concerns expressed by the TLG, and are as follows:
 - 3.6.1 Theme 1 - Review of Licence Conditions
 - Hackney Carriage Vehicles
 - Private Hire Vehicles
 - Private Hire Drivers
 - Private Hire Operators
 - 3.6.2 Theme 2 - Review of Policies
 - Enforcement
 - Convictions Policy
 - Establishment of Code of Conduct
 - 3.6.3 Theme 3 – Taxi Partnership Working
 - Trade Liaison Group
 - Taxi Watch
 - Barnsley Voice
 - 3.6.4 Theme 4 - Review of Application Process
 - Application Procedure
 - Testing Requirements
 - Three Yearly Licences
 - Dual Licences

- Delimiting (linked to Law Commission Review)

3.6.5 Theme 5 - Vehicle Testing

- Frequency
- Venue
- Charges

3.6.6 Theme 6 - Fee Review

- Driver
- Vehicle
- Operator

3.6.7 Theme 7 - Governance

- Accounting/Reporting Methods
- Taxi Policy

3.6.8 Theme 8 - Physical Infrastructure

- Hackney Carriage Ranks
- Private Hire Drop-off Zones
- Use of Bus Lanes

3.7 The first two themes, based around licence conditions and licensing policy were carried out utilising expert legal advice, both internally and externally.

3.8 Due to the complexity of the review, the tight timescales and the desirability of building in a degree of independence, the remaining six themes were led by an external consultant, commissioned by the Council via the appropriate procurement processes.

3.9 The Council fully accepts that taxi drivers and operators are important, valued and legitimate local businesses, and must do all that it can to support and encourage them as a critical provider of transport services in the borough. It must also recognise that it has a statutory role in ensuring that taxis are safe and well regulated, providing reliable and reputable service to the public. These two things are not mutually exclusive, but there has to be a balance struck.

4. **Consideration of alternative approaches**

4.1 The review of taxi services is as a direct result of a formal recommendation by the District Auditor following an objection to the Council's accounts, and a resolution of full Council in November 2011

4.2 Key to the District Auditor's recommendation was that the review should be in full consultation with trade and this is what has happened. Where possible, the views and suggestions of the taxi trade have been taken into account in formulating the recommendations contained in this report.

- 4.3 The recommendations in this report have also been put together following consultation with experts both internal and external to the Council, and following the conclusions of an external consultant who was commissioned to report back after reviewing current service provision within the authority.
- 4.4 Where appropriate, an assessment has been, or will be, made of the operational and financial implications of implementing each recommendation and it is felt that all the recommendations are reasonable and achievable. The Council has taken the view that rather than defend a position purely on the fact that it is “always the way we have done it”, it has taken on board many of the concerns expressed by the trade in the spirit of “why not?”. There is a need to recognise that technology and the Council’s changing strategies and financial situation has meant that all processes need to be reviewed and brought up to date.
- 4.5 Where there has been a failure to reach agreement with the trade, this has been reflected in the minutes of TLG meetings and/or in the supporting documentation to this report.

5. Proposal and justification

- 5.1 The conditions relating to the granting of taxi licensing have been revised, covering hackney carriage drivers and vehicles, private hire drivers and vehicles, and private hire operators. These conditions have been subject to formal legal scrutiny by the Borough Secretary and have been put together following full consultation with the TLG. It is proposed that the conditions attached as Appendix C are adopted by the Council. It should be noted that if Members adopt all, or even some, of the other recommendations contained in the report, then conditions are likely to need further revision.
- 5.2 Similarly, the convictions policy which guides officers and Members on assessing whether a hackney carriage or private hire driver is a fit and proper person to drive. This policy has been revised in partnership with external expert legal advice (specialist Licensing Barrister) and in full consultation with the TLG. It is proposed that the convictions policy at Appendix D is adopted by the Council
- 5.3 A Code of Conduct / Service Standards document has also been developed, again with external expert input and in full consultation with the TLG. This document sets out the standards expected of the taxi trade in its day to day provision of services to the public and should provide a clear framework for all concerned to manage reasonable expectations. It is proposed that the document attached as Appendix D is adopted by the Council.
- 5.4 Key Theme 3 is about Partnership Working with the taxi trade. Following the completion of the work commissioned by CTS Traffic and Transportation, and full consultation with the trade, the following are proposed:
- Develop current relationships between the taxi trade, the Licensing team and other council services such as Highways, Planning and Transportation Policy to reflect the need for the trade to be included in

any discussions and consultation relating to the physical infrastructure of the Borough – road routing, hackney ranks, private hire pick up and drop off points and so on. This will provide a the opportunity for a full and frank discussion with trade and enable them to make their voice heard as the borough is developed, particularly in the town centre.

- Where appropriate, any planning applications that could involve the need for taxi provision as part of the development, e.g. supermarkets and other commercial developments, should have these needs reflected.
- The provision of private hire and hackney carriage services should be included in any development of the Town Centre Area Action Plan.
- The taxi trade have asked that they should be allowed to use bus lanes in the borough. In order that this request be properly considered, the trade must take it upon themselves to commission a review of bus lane usage and what the advantages might be in allowing taxis to use them.

5.5 Key Theme 4 covers the application process itself and the following are proposed:

- All application forms for taxi licensing should be the same whether they are on-line or hard copy. This would be in line with current Council policy of encouraging on-line application and payment. This will make it easier for applicants to enter the trade.
- Driver licence renewals should be tied in with CRB driver checks – i.e. every three years. This would remove the current rush every summer when all drivers renew at the same time. Although this will entail considerable further work to ensure that changes to systems, processes and financial arrangements (e.g. setting suitable fees) are taken into account, this would ease the pressure on the trade and officers. It is intended that these new arrangements would be implemented by 1st April 2013, with an appropriate review of fees thereafter. Drivers renewing would be offered one to three year options, depending on the date of their CRB renewal.
- Dual licences (i.e. able to drive hackney carriages and private hire vehicles) should be issued, unless the applicant specifies a single licence. This makes the process simpler to administer and removes any concerns over drivers “migrating” from hackney to private hire or vice versa.
- Council checks on DVLA driving licences will be by direct web link to the DVLA. This will remove the need for drivers to submit their original documentation when renewing their licences, and will enable officers to carry out periodic checks on drivers remotely. This will go some way towards ensuring that the risk of “false” licences and unlicensed drivers is eliminated, improving public safety.
- Operators should be offered 5 year licences. Again, this is in line with national guidelines and will ease the pressure on operators and officers.

- The issue of drivers migrating between one licence and another – i.e. hackney to private hire and vice versa – has been a contentious one, particularly the current policy of treating such a migration as a new application. The Council suggests that where a migrating driver meets the Council's driver convictions policy, and has a good record with the Council, the need for a DSA test should be removed, which is consistent with not requiring a new medical or CRB check. It will still be a new application, with the appropriate fee, but will not require all the documents usually associated with a new application..
- The DSA test should be reviewed. The Council is unconvinced by claims from the trade that appointments with DSA test centres are hard to come by, but would be prepared to consider a reasonable alternative – e.g. advanced driving tests using existing driving instructors.
- The current knowledge test should be retained, subject to regular review by the Licensing team.
- The Council will prepare comprehensive guidance on the expected timescales for the respective licensing application requirements – CRB checks, Medicals, DSA driving tests, theory tests etc. This will provide an up front indication of what applicants can expect, although the Council cannot be held responsible for delays associated with other agencies.
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5.6 Key Theme 5 is related to vehicle testing and the following are proposed:

- Frequency of vehicle checks will be revised on a risk based approach, utilising failure statistics and making more use of ad-hoc roadside checks and short notice checks using the expertise retained by the vehicle engineers at Smithies Depot. This will mean that vehicles which consistently pass their tests are less likely to get inspected or tested than those which don't. This seems a fairer approach all round.
- Allowing other MOT test stations to carry out vehicle testing – this will need more work in terms of implementation and would, if accepted, be progressed through the TLG. This would provide more freedom and flexibility to the trade in where they go for testing, but will need further work regarding implementation as the Council needs reassurance that vehicles are properly tested and safe. Current VOSA arrangements are such that there is high confidence that MOT test stations of a suitable, or "green", status are already well regulated.
- This will mean providing an MOT test certificate after each check as opposed to the current Certificate of Compliance. This will mean that all vehicles will always have an up to date MOT certificate, removing any confusion associated with certificates of compliance, which are not recognised by VOSA.
- Reporting accidents – a simple report form will be developed that will need to be sent into the Group Leader. Accidents must be reported and

this will make the process simpler and easier, and will allow officers the opportunity to inspect vehicles and reassess driver competency.

5. Key Theme 6 relates to a Review of Fees and the following are proposed:

- The Council maintains that it has not over-recovered fees in the past and there are no refunds applicable (see previous analysis)
- Once the changes in this report are agreed and implemented, a review of their impact on costs, and therefore fees, will be carried out. The independent consultant has suggested that any changes to fees may be implemented for the beginning of 2013/14, but some of the suggested changes will take time to implement in themselves, and then be impact assessed, so it is more likely that any changes to fees will be introduced in April 2014

5.8 Key Theme 7 relates to Governance and the following are proposed:

- Current recommendation from Consultant is that consideration of officer panels be delayed pending agreement on other more pressing matters of governance – TLG meetings, lines of reporting, clear process map for licensing matters, including where and to whom individual issues go for decision
- The Trade Liaison Group (TLG) should continue with clear terms of reference, including:
 - Meetings to take place bi-monthly
 - An annual schedule to be produced detailing regular matters that need to be considered by the TLG and outlining when co-opted members of the group will be invited to meetings – e.g. Finance Officer to present annual accounts.
 - All terms of reference, policies, procedures, conditions and processes to be captured in a Taxi Licensing Manual, appropriately controlled and available to all stakeholders.
 - Regular attendance by key stakeholders such as the Police, Smithies Depot Manager, Highways Services and Planning Services, ideally on a twice-yearly basis.

This puts relationships between the trade and the Council, and other stakeholders, on a clear and solid footing, ensuring that the current good working relationships continue into the future.

5.9 Key Theme 8 relates to Physical Infrastructure, and has clear links with Key Theme 3 (Partnership Working). Following the completion of the work commissioned by CTS Traffic and Transportation, and full consultation with the trade, the following are proposed:

- Taxi needs and requirements will be considered in any future development proposals for the borough, in particular the Town Centre.

- Eldon Street is a particular issue and the taxi trade must be consulted on any changes to taxi rank provision, in particular how it interacts with other ranks on Midland Street and Regent Street
- Planning applications should be considered in light of any potential need for hackney carriage / private hire provision, particularly where commercial developments such as supermarkets and night clubs are concerned.
- A licensed vehicle access strategy should be developed to encompass the proposals above, involving officers and trade.
- Any licensed vehicle access strategy needs to dovetail with the Town Centre Area Action Plan.

6. Implications for local people / service users

- 6.1 One of the main drivers for undertaking a review of taxi licensing, apart from the fact that the District Auditor recommended it, was to improve things for the trade, the service and, ultimately, the public. The intention is to make the taxi licence application process simpler and easier, with more choice available to the trade.
- 6.2 There will be a review of service costs and expenditure once the outcomes of this review are implemented, which may have an impact on the fees paid to the Licensing Service, but this will be reported back to Members at the appropriate time, likely to be in advance of the budget setting process for 2014/15.

7. Financial implications

- 7.1 Consultations on the financial implications have taken place with representatives of the Acting Executive Director of Finance.
- 7.2 Some of the recommendations detailed in the body of the report will see a streamlining of the administrative processes within the Licensing Section and therefore will impact on the administrative costs attributable for recovery. This would also see a potential fall in the level of administrative staffing required within the licensing team.
- 7.3 There may however be a case for increased enforcement around general vehicle licensing enforcement e.g. roadside vehicle checks and operator checks. This would see a potential increase in the level of enforcement costs attributable for recovery and the requirement for additional resources around enforcement.
- 7.4 Any impacts on the overall costs attributable for recovery and the knock on effect on the level of charges levied via Taxi Licensing will be assessed as all the accepted recommendations are bedded in throughout 2013/14. The impact of these potential changes on licensing charges and the levels of fee income received will be subject to a further report, and be ready for implementation by April 2014.

- 7.5 Recommendations included in Key Theme 5 around frequency of testing and the taxi trade being permitted to use other VOSA approved MOT stations, will see proposed changes to vehicle testing arrangements at Smithies. This could potentially impact on Vehicle Testing income, but would depend on how quickly these proposals could be implemented as the Council needs reassurance that vehicles are properly tested and safe.
- 7.6 However, ad hoc roadside and short notice vehicle inspections carried out by licensing enforcement officers and mechanical engineers from the Smithies Test station could generate additional income, as all vehicles selected will be sent to Smithies for testing. This may help offset any reduction in vehicle testing income detailed at 7.5.
- 7.7 As with the Taxi Licensing the full impact on Vehicle Testing income will not be certain until the full impact of the proposals are realised. Any impacts will be monitored through 2013/14 and will be subject to a further report in line with the review of Taxi licences and be ready for implementation by April 2014.

8. Employee implications

- 8.1 There are no employee implications at this stage. As is mentioned at Paragraph 7, a future review of resources will take place following implementation of any approved recommendations. Any employee implications will be assessed and reported at that stage.

9. Communications implications

- 9.1 Planning and Regulatory Services have been working closely with the trade, via the TLG, throughout the entire review, so they should be up to speed with any changes falling out of this report. Having said that, changes will be communicated to the trade as and when they are implemented, and appropriate adjustments will be made to the website and the information contained therein.
- 9.2 There is little impact on the public, so no significant communication issues in this regard.

10. Consultations

- Taxi Trade Liaison Group
- Environmental Services
- Planning
- Chair and Vice Chair of Licensing Board, subject to formal approval by the Board

11. Glossary

- TLG – Trade Liaison Group
- VOSA – Vehicle and Operator Services Agency
- DVLA – Driver and Vehicle Licensing Agency
- DSA – Driving Standards Agency

- CRB – Criminal Records Bureau

12. List of Appendices

Appendix C Taxi Licensing Conditions:

- i. Hackney Carriage Vehicles
- ii. Private Hire Vehicles
- iii. Private Hire Drivers
- iv. Private Hire Operators

Appendix D Driver Convictions Policy

Appendix E Full List of Recommendations

13. Background Papers (Available from Officer Contact, Regulatory Services)

Final Report from CTS Traffic and Transportation

Key Theme Reports A-F from CTS Traffic and Transportation

2011 Hackney Demand Review

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|----------------------------|----------------------|----------------|
| Office Contact: Simon Frow | Telephone No: 772541 | Date: 01.12.12 |
|----------------------------|----------------------|----------------|

| | |
|---|-------------|
| Financial Implications / Consultation | Date: |
|---|-------------|

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|---|
| Consultations have taken place with representatives of the Acting Executive Director, Finance |
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BARNLSLEY

Metropolitan Borough Council

HACKNEY CARRIAGE VEHICLE LICENCE

LICENCE NO. «refno» Plate No. «plate_no»

The Barnsley Metropolitan Borough Council, pursuant to its powers and authorities and upon the application of «name», «address1», «address2», «address3», «address4», «address5» the Proprietor or proprietors of a mechanically propelled Carriage, bearing the Registration Number «REG_NO» and licensed to carry «no_of_pass» persons, and the person solely or persons as applicable concerned in the keeping, employing, or letting for hire the vehicle, do hereby Licence such vehicle as a Hackney Carriage to ply for hire within the said Metropolitan Borough of Barnsley on the conditions specified overleaf:

The plate number of the vehicle is specified above and this number must be marked on all licence plates to be affixed or attached in conspicuous positions on the inside and/or outside of the said vehicle as specified in the conditions.

This licence to be in force from «date_coc_iss» until the «date_lic_exp» (unless previously suspended or revoked).

Dated: «Aadate»

Stephen Moralee

.....
Mr Stephen Moralee
Assistant Director, Planning and Regulatory Services

| | |
|------------------|-----------------|
| Vehicle Details | |
| Registration No: | «reg_no» |
| Make/Model: | «make_model» |
| Colour: | «vehiclecolour» |

The Vehicle will be due for re-inspection before the «date_coc_exp»

If you fail to present your vehicle for re-inspection when due, your Licence will automatically be revoked.

HACKNEY CARRIAGE VEHICLE LICENCE CONDITIONS

In this Licence and Conditions:

“authorised officer” means any officer of the Council authorised in writing by the Assistant Director, Regulatory Services of the Council for the purposes of these Conditions.

“the Council” means the Barnsley Metropolitan Borough Council.

“hackney carriage” has the same meaning as in the Town Police Clauses Act, 1847.

“licence plate” means the plate issued by the Council for the purpose of identifying the vehicle as a Hackney Carriage duly licensed by the Council.

“Proprietor” means the person or persons or body named in the Licence as the Proprietor of the vehicle.

“the vehicle” means the Hackney Carriage in respect of which this Licence is issued.

Conditions

1. (a) The Proprietor shall cause the number of this Licence to be fixed and displayed on the vehicle at all times, such number to be displayed by means of the licence plate/s and an interior licence plate.
(b) The interior licence plate shall be fixed and displayed inside the vehicle in such a manner and place that the particulars thereon are clearly visible to any passengers being conveyed in the vehicle.
(c) The exterior licence plate shall be fixed and displayed outside on the rear of the vehicle in a position that the vehicle’s registration mark is not obscured, with the particulars thereon facing outwards and in such a manner and place that the licence plate is clearly visible.
2. All licence plates shall remain the property of the Council and shall be returned forthwith to the Licensing Section of the Council if the Hackney Carriage licence expires, is suspended or is revoked.
3. (a) The vehicle shall have valid insurance for the purpose of hire and reward, the carriage of passengers and public liability, which must also comply with the requirements of Section 143 of the Road Traffic Act 1988.
(b) On request by an authorised officer or constable the proprietor shall produce a relevant and fully compliant certificate of insurance.
4. (a) Any vehicle other than a purpose built hackney carriage shall be white with black bonnet and boot, subject to the discretion of the Principal Licensing Officer. Purpose built vehicles must be black. A roof sign of the design approved by the Council must be displayed.
(b) The vehicle shall display on the external surface of the front doors the Barnsley Metropolitan Borough Council crest and the wording “Barnsley Metropolitan Borough Council Licensed Hackney Carriage” any other sign or marking shall be at the discretion of the Council.
5. Sub-sections (2) to (5) of Section 233 of the Local Government Act 1972 shall have effect and are incorporated in these conditions in relation to any notices required or authorised by these Conditions to be given or served on the Proprietor by or on behalf of the Council or by an authorised officer.
6. The Proprietor shall not allow more passengers to be carried in the vehicle than the maximum number specified on this licence, subject to the availability of a useable seatbelt for each person carried.
7. The Proprietor shall cause to be carried on the vehicle an efficient fire extinguisher of a make and type approved by the Council and suitable for use on motor vehicles such extinguishers to be fixed on the vehicle in such a position as to be readily available for use and maintained in good working order at all times.
8. Any authorised officer of the Council or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any hackney-carriage licensed by the Council, or any taximeter affixed to such a vehicle, and if he is not satisfied as to the fitness of the hackney-carriage or as to the accuracy of the taximeter he may by notice in writing require the Proprietor of the hackney-carriage to make it or its taximeter available for further inspection and testing

at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or constable is so satisfied:-

Provided that, if the authorised officer or constable is not so satisfied before the expiration of a period of two months; the said licence shall, by virtue of this section, be deemed to have been revoked.

9. Without prejudice to the provisions of the previous condition the Proprietor shall present the vehicle for inspection and testing by or on behalf of the Council within such a period and at such a place within the area of the Council as they may by notice reasonably require provided that the Council shall not under the provisions of this condition require the Proprietor to present the same vehicle for inspection and testing on more than three separate occasions during any one period of twelve months.
10. The vehicle shall be equipped with a taximeter, it shall not be used for hire unless such taximeter has been tested and approved by or on behalf of the Council.

Any person who:-

Tampers with any seal on any taximeter without lawful excuse or alters any taximeter with intent to mislead; or knowingly causes or permits a vehicle of which he is the Proprietor to be used in contravention of sub-section (1) of Section 71 of the Local Government (Miscellaneous Provisions) Act 1976 shall be guilty of an offence.

Where a replacement or new taximeter is fitted to a Hackney Carriage it must be calendar controlled Compliant.

11. Without prejudice to the provisions of Section 170 of the Road Traffic Act 1988, the Proprietor of a Hackney Carriage vehicle licensed by the Council shall report to the Principal Licensing Officer, in writing, as soon as reasonably practicable, and in any case within seventy two hours of the occurrence thereof, any accident to such vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.
12. If the Proprietor transfers his interest in the Hackney Carriage he shall within fourteen days after such transfer give notice in writing to the Principal Licensing Officer of the Council, specifying the name and address of the person to whom the vehicle has been transferred.

Note:- Without prejudice to the foregoing conditions, the Licensee is required to comply with Statutory requirements and attention is drawn in particular to Part II of the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 and Bye-laws made under Section 68 thereof and the Public Health Act 1875.

13. A Citizen Band radio may only be installed or used in the vehicle subject to the following:-
 - (a) That permission for the installation or use of C.B. radios in the vehicle may be withdrawn by the Principal Licensing Officer at any time without notice.
 - (b) That only mid-band C.B. radios shall be installed or used in the vehicle.
 - (c) The C.B. radios shall only be used to advise other Hackney Carriage drivers of the availability of ranks or to summon help in any emergency.
 - (d) No information about the identity and/or home address of any customer or passenger shall be issued in a C.B. radio transmission.
 - (e) No obscene, offensive or abusive language shall be used.
14. No Driver or Proprietor shall contravene parking restrictions whilst using or being in charge of the vehicle.
15. (a) If the vehicle is less than five years old at the commencement date of this licence then the proprietor shall present the same for a six monthly re-inspection (at the Council's Vehicle Depot, Smithies Lane, Barnsley) at the end of six months following the commencement date of this licence. Furthermore, if the vehicle is more than five years old at the commencement date of this licence then the proprietor shall present the same for a re-inspection (at the Council's Vehicle Depot, Smithies Lane, Barnsley) every four months following the commencement date of this licence.

(b) If on such re-inspection the vehicle shall fail to satisfy the standards of fitness of the Council's Vehicle Examiner, then the licence will automatically be suspended until the vehicle has been rectified to the satisfaction of the Examiner.

(c) If the vehicle is not presented for re-inspection within 7 days of the expiry of the four month or six month period specified in paragraph (a) above then this licence shall automatically be revoked.

16. This Licence holder shall ensure that the licensed vehicle has a daily safety check. As a minimum this must be a visual check on all lights, oil, water, tyres, mirrors and seat belts. A written record must be made of each safety check, details of faults recorded and remedial action taken. The record must be signed by the person undertaking the safety checks and kept on the vehicle for a minimum of 30 days and then for a further six months by the licence holder. On being so required by an authorised officer, the driver of the vehicle shall produce, to that officer, the recorded daily checks kept on the vehicle and the licence holder, on request by that officer, shall produce those recorded checks in his possession and/or those kept in the vehicle.

The following condition applies to all licences issued on or after 1st January 2011, where the vehicle is constructed or adapted for wheelchair use and applies at all times irrespective of whether or not the vehicle is carrying passengers.

17. No person, other than a hackney carriage driver who has satisfied the Council of their competency to safely load, unload and secure a wheelchair and its passenger, may drive this licensed hackney carriage. **Notwithstanding** that they are a licensed hackney carriage driver.

For further information contact:

Barnsley Metropolitan Borough Council
Licensing Section
PO Box 602
Barnsley
S70 9FB

Tel: 01226 772468
E Mail: regulatoryservices@barnsley.gov.uk

REGULATORY SERVICES



BARNLSLEY

Metropolitan Borough Council

PRIVATE HIRE VEHICLE LICENCE

LICENCE NUMBER: «refno»

PLATE NUMBER: «plate_no»

The Barnsley Metropolitan Borough Council by virtue of the powers vested in them by the Local Government (Miscellaneous Provisions) Act 1976 and of every other power or authority for that purpose given to or vested in them DO HEREBY LICENCE «name», «address1», «address2», «address3», «address4», «address5» hereto to use the vehicle specified in the schedule below as a private hire vehicle to carry not more than «no_of_pass» passengers

The plate number of the vehicle is specified above and this number must be marked on all licence plates to be affixed or attached in conspicuous positions on the inside and/or outside of the said vehicle as specified in the conditions.

This licence to be in force from «date_coc_iss», until the «date_lic_exp» (unless previously suspended or revoked).

Dated: «Aadate»

Stephen Moralee

.....
Mr Stephen Moralee
Assistant Director, Planning and Regulatory Services

SCHEDULE

| Vehicle | |
|-----------------|-----------------|
| Registration No | «reg_no» |
| Make/Model | |
| Colour | «make_model» |
| Style | «vehiclecolour» |
| | «vehicle_style» |

PRIVATE HIRE VEHICLE LICENCE CONDITIONS

In this Licence and Conditions:-

“authorised officer” means any officer of the Council authorised in writing by the Assistant Director Regulatory Services of the Council for the purposes of these Conditions.

“the Council” means the Barnsley Metropolitan Borough Council.

“hackney carriage” has the same meaning as in the Town Police Clauses Act, 1847.

“licence plate” and “interior licence plate” mean any plate issued by the Council for the purpose of identifying the vehicle as a private hire vehicle duly licensed by the Council.

“Proprietor” means the person or persons or body named in this Licence as the Proprietor of the Vehicle and includes a part Proprietor.

“the vehicle” means the private hire vehicle in respect of which this Licence is issued.

Conditions

1. The vehicle must not be used as a Hackney Carriage.
2. (a) The Proprietor shall cause the number of this Licence to be fixed and displayed on the vehicle at all times during which the vehicle is used as a private hire vehicle such number to be displayed by means of the licence plate/s and the interior licence plate issued by the Council to the Proprietor;
(b) The interior licence plate shall be fixed and displayed inside the vehicle in such a manner and place that the particulars thereon are clearly visible to any passengers being conveyed in the vehicle;
(c) Licence plate/s shall be fixed and displayed outside and on the front and rear of the vehicle in a position that the vehicle's registration mark is not obscured, with the particulars thereon facing outwards and in such a manner and place that the licence plate is clearly visible.
3. All licence plates shall remain the property of the Council and shall be returned forthwith to the Licensing Section of the Council if the Private Hire Vehicle licence expires, is suspended or is revoked subject to the exercise by the licensee of any rights of appeal in respect of such decision in which event they may retain possession of the plate pending the outcome of such appeal
4. (a) The vehicle shall have valid insurance for the purpose of hire and reward, the carriage of passengers and public liability, which must also comply with the requirements of Section 143 of the Road Traffic Act 1988.
(b) On request by an authorised officer or constable the proprietor shall produce a relevant and fully compliant certificate of insurance
5. (a) The vehicle when working must display on its front doors the words “Private Hire Vehicle Advanced Booking Only” and must display on the rear offside and near side doors/panel of the vehicle the operator's trade or business name and telephone number. No other signs or words whatsoever shall be displayed.
(b) Except for the signs permitted by this condition and without prejudice to the generality of the prohibition upon all other signs it is stated for the avoidance of doubt that the proprietor shall not display, suffer or permit to be displayed on or from the vehicle any word (including the words “taxi” and/or “cab”), sign, notice, mark, illumination or other feature which, having regard to the time and place at which it is displayed and to the circumstances, may suggest to any person that the vehicle is available for the purpose of carrying passengers for hire or reward as a licensed hackney carriage.
6. Sub-sections (2) to (5) of Section 233 of the Local Government Act 1972 shall have effect and are incorporated in these Conditions in relation to any notices required or authorised by these conditions to be given or served on the Proprietor by or on behalf of the Council or by an authorised officer.
7. The Proprietor shall cause to be carried on the vehicle an efficient fire extinguisher of a make and type approved by the Council and suitable for use on motor vehicles such extinguisher to be fixed on the vehicle in such a position as to be readily available for use and maintained in good working order at all times.
8. Any authorised officer of the Council or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any private hire vehicle licensed by the Council, and if he is not satisfied as to the fitness of the private hire vehicle he may by notice in writing

require the Proprietor of the private hire vehicle to make it available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or constable is so satisfied.

Provided that, if the authorised officer or constable is not so satisfied before the expiration of a period of two months; the said licence shall, by virtue of this section, be deemed to have been revoked.

9. Without prejudice to the provisions of the previous condition the Proprietor shall present the vehicle for inspection and testing by or on behalf of the Council within such a period and at such a place within the area of the Council as they may by notice reasonably require provided that the Council shall not under the provisions of this condition require the Proprietor to present the same vehicle for inspection and testing on more than three separate occasions during any one period of twelve months.
10. If any Proprietor fails without reasonable excuse to comply with the terms of the notice he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and to a daily fine not exceeding ten pounds, and any authorised officer of the Council or constable shall be entitled to remove the said licence plates.
11. If the Proprietor transfers his interest in the private hire vehicle he shall within fourteen days after such transfer give notice in writing to the Principal Licensing Officer of the Council, specifying the name and address of the person to whom the private hire vehicle has been transferred.
12. Without prejudice to the Provisions of Section 170 of the Road Traffic Act 1988, the Proprietor of a private hire vehicle licensed by the Council shall report to the Principal Licensing Officer, in writing, as soon as reasonably practicable, and in any case within seventy two hours of the occurrence thereof, any accident to such private hire vehicle causing damage materially affecting the safety, performance or appearance of the private hire vehicle, or the comfort or convenience of persons carried therein.
13. When Private Hire Licences are issued following the production of cover note of insurance the Certificate of Insurance must be produced on or before the expiry of the cover note, or a further cover note produced to ensure continuity of insurance. Failure to do so render the licence suspended.
16. In the event of the applicant for this vehicle licence defaulting in payment of fees, the licence will automatically be suspended.
17. (a) If the vehicle is less than five years old at the commencement date of this licence then the proprietor shall present the same for a six monthly re-inspection (at the Council's Vehicle Depot, Smithies Lane, Barnsley) at the end of six months following the commencement date of this licence. Furthermore, if the vehicle is more than five years old at the commencement date of this licence then the proprietor shall present the same for a re-inspection (at the Council's Vehicle Depot, Smithies Lane, Barnsley) every four months following the commencement date of this licence.
(b) If on such re-inspection the vehicle shall fail to satisfy the standards of fitness of the Council's Vehicle Examiner, then the licence will automatically be suspended until the vehicle has been rectified to the satisfaction of the Examiner.
(c) If the vehicle is not presented for re-inspection within 7 days of the expiry of the four or six month period specified in paragraph (a) above then this licence shall automatically be revoked.
18. This Licence holder shall ensure that the licensed vehicle has a daily safety check. As a minimum this must be a visual check on all lights, oil, water, tyres, mirrors and seat belts. A written record must be made of each safety check, details of faults recorded and remedial action taken. The record must be signed by the person undertaking the safety checks and kept on the vehicle for a minimum of 30 days and then for a further six months by the licence holder. On being so required by an authorised officer, the driver of the vehicle shall produce, to that officer, the recorded daily checks kept on the vehicle and the licence holder, on request by that officer, shall produce those recorded checks in his possession and/or those kept in the vehicle.

The following condition applies to all licences issued on or after 1st January 2011, where the vehicle is constructed or adapted for wheelchair use and applies at all times irrespective of whether or not the vehicle is carrying passengers.

19. No person, other than a private hire vehicle driver who has satisfied the Council of their competency to safely load, unload and secure a wheelchair and its passenger, may drive this licensed private hire vehicle. **Notwithstanding** that they are a licensed private hire vehicle driver."

For further information contact:

Barnsley Metropolitan Borough Council
Licensing Section
Regulatory Services
PO Box 602
Barnsley
S70 9FB

Tel: 01226 772468
E Mail: regulatoryservices@barnsley.gov.uk

REGULATORY SERVICES

Proposed Private Hire Driver Conditions

In these conditions the term 'road' means any highway or road to which the public has access, including bridges over which a road passes.

1. The licence holder shall notify the Licensing Section in writing of any change of name or address within five working days.
2. The licence holder shall not while driving or in charge of a private hire vehicle:
 - a. Tout or solicit on a road or other public place for the purpose of hire and reward or to be carried for hire in any private hire vehicle
 - b. Cause or procure any other person to tout or solicit on the road or the public place to hire or be carried for hire in any private hire vehicle
 - c. Offer that vehicle for immediate hire while the Licence Holder or that vehicle is on a road or located within a public place
 - d. Accept an offer for the immediate hire of that vehicle while the Licence Holder or that vehicle is on the road or located within a public place except where such an offer is first communicated to the Licence Holder by telephone or by apparatus for wireless telegraphy fitted to that vehicle
3. The licence holder must not carry more passengers than the number prescribed in the licence for the vehicle, regardless of the age or size of the passenger.
4. The licence holder shall at all times when driving or acting in accordance with the driver's licence granted to him:-
 - a. Wear the driver's badge that has been issued to him/her by the Council in such a position and manner that is clearly displayed and visible
 - b. Be clean and respectable in his/her dress and person and behave in an orderly manner
 - c. Conduct him/herself with civility and properly towards every person hiring his/her vehicle or being conveyed in it
5. The drivers badge shall remain the property of the Council and if their licence is revoked or not renewed he/she shall return the badge to the Council within ten working days subject to the exercise by the licensee of any rights of appeal in respect of such decision in which event they may retain possession of the badge pending the outcome of such appeal
6. The licence holder shall carry a true record of his/her duties containing the name of the hirer, time, date, commencement and destination address. The record shall be completed prior to a hiring being attended to and shall be available for production to an Authorised Officer or Constable upon request.
7. The licence holder shall notify the Licensing Section in writing within five working days full details of any conviction, binding over, caution, fixed

penalty notice*, warning or reprimand imposed on him/her during the period of the licence. Whether charged or not, the driver shall notify the Council within three working days of their arrest for any alleged offence(s)

*this includes all motoring offences whether endorsable or not and the requirement to attend any speed awareness course

8. The licence holder shall comply with all relevant statutory requirements contained in Part II of the Local Government (Miscellaneous Provisions) Act, 1976 and in the Town Police Clauses Act 1847 and all other conditions imposed by the Council.
9. The Licence holder of a private hire vehicle must carry a guide dog or assistance dog belonging to a passenger free of charge unless the licence holder has a proven medical condition that would preclude such action and has been given exemption from the Council.
10. A licence holder of a wheelchair accessible vehicle must before the commencement of any journey ensure that all wheelchairs are firmly secured and that the brakes of all wheelchairs have been applied
11. The licence holder of a private hire vehicle shall at all times when driving a private hire vehicle carry with him/her a copy of these conditions and shall make it available for the inspection by the hirer or any other passenger on request. A further copy of the conditions shall be signed by the licence holder and held on file to ensure they have been read and understood.
12. A licence holder of a private hire vehicle must not accept bookings unless he/she holds a valid private hire operator's licence.
13. The Smoke Free Regulations 2007 state that any vehicle shall be smoke free if used by a member of the public whether or not for hire and reward.
The Licence holder must ensure his/her licensed vehicle(s) are smoke free at all times including when passengers are not being carried.
Section 7(2) of the Health Act 2006 states that a person commits an offence if they smoke in a smoke free place or vehicle and that person would be liable for a fixed penalty notice for £50.

Warning

Failure to comply with any of the conditions attached to this licence may result in the suspension or revocation of the licence to drive a private hire vehicle.

- A private hire driver's licence does not permit the licence holder to drive a hackney carriage vehicle. A person who drives a hackney carriage vehicle requires a hackney carriage driver's licence.

Application for renewal of this licence should be made to BMBC on the prescribed form which is available from the Licensing Duty Office, Civic Building, Eldon Street, Barnsley. All licence holders will be sent a reminder and the necessary forms for renewal in advance of the expiry of the licence.

Please note that the responsibility for renewal rests with the licence holder – reminder letters are sent purely as a courtesy.

I confirm that I have read and understood the above conditions. I will comply with the conditions at all times. I understand that any breach of these conditions may result in the suspension or revocation of my private hire driver's licence.

Print Name.....

Signed.....

Dated.....



PRIVATE HIRE OPERATORS LICENCE

LICENCE NUMBER: «**mau_ref**»

Barnsley Metropolitan Borough Council by virtue of the powers vested in them by the Local Government (Miscellaneous Provisions) Act 1976 and of every other power or authority for that purpose given to or vested in them DO HEREBY LICENCE «**prop_name**» of «**address1**»«**address2**», «**address3**», «**address4**», «**address5**» to operate a Private Hire company in the name of «**la_ref**» from «**address1**»«**address2**», «**address3**», «**address4**», «**address5**».

This Licence shall remain in force until «**date_lic_exp**» unless suspended or revoked by the Council prior thereto, subject to the provisions of the said Act and to the conditions imposed there under and annexed hereto.

Given Under my hand on behalf of the Barnsley Metropolitan Borough Council
this date

Stephen Moralee

Mr Stephen Moralee

Assistant Director, Planning and Regulatory Services

Dated: «**date_lic_iss**»

CONDITIONS OF LICENCE

Any reference in these conditions to the "Act" means the Local Government (miscellaneous provisions) Act 1976.

The "Council" means the Barnsley Metropolitan Borough council.

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

"Vehicle" means the private hire vehicle in respect of which a private hire vehicle licence has been issued.

Every contract for the hire of a licenced private hire vehicle is deemed to be made with the operator who accepts the booking for that vehicle whether or not he himself provides the vehicle.

No person holding a section 55 operators licence may operate a private hire vehicle without that vehicle and its driver each being licenced separately by the council.

The council may attach to an operators licence granted under section 55 of the act, such conditions as they consider reasonably necessary, and this licence is granted subject to the under mentioned conditions:-

1. The operator shall keep a true a proper record of every booking of a private hire vehicle invited or accepted by him. The record shall be kept in a suitable book with consecutively numbered pages in which the operator shall, before each journey commences, enter therein:-
 - A. Date and time the booking was received
 - B. The name of the hirer
 - C. Time, date, and place of journey commencement
 - D. Destination Address
 - E. Identification of vehicle used
 - F. Every booking accepted on a specific day shall be allocated a booking number in consecutive sequence.
 - G. For the purposes of paragraph "f" above, a 'day' shall commence 12 midnight and end the following 11:59 p.m.
 - H. All records of bookings, whether completed or not, shall be kept for a period of at least 6 months.
 - I. The records referred to in this condition shall be produced on request by the operator to any authorised officer of the council or to any constable for inspection.

2. The operator may use such alternative methods of keeping records of bookings as the Assistant Director, Planning & Regulatory Services may from time to time permit by notice in writing to the operator, but subject at all times to compliance by the operator with the requirements set out in paragraph 'A' to 'H' above.
3. The licensee shall at all times keep every licence (or a copy of the licence) issued under the provisions of the local government (miscellaneous provisions) act 1976, at his operating centre, in respect of any private hire vehicle or private hire driver operated by him. All copies of licences must be retained for a period of one year after the expiry of the licence.
4. The operator may not operate a PHV operators business with any person who has not been granted an operators licence by the Council.

NOTE: Without prejudice to the foregoing conditions the Licensee is required to comply with all statutory requirements and particular attention is drawn to the requirements set out in part II of the Local Government (Miscellaneous Provisions) Act 1976.

**PLEASE ENSURE YOU READ AND COMPLY FULLY WITH THE
LICENCE CONDITIONS ATTACHED TO YOUR OPERATORS LICENCE.
IN PARTICULAR CONDITION NUMBER 3.**



BARNSLEY

Metropolitan Borough Council

Policy Guidance to assist with the assessment of 'fit and proper person' with regard to all private hire and hackney carriage driver licences

Version 3
December 2012

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1. Introduction to the Guidelines Relating to the Relevance of Convictions

1.1 Powers and Duties

The Local Government (Miscellaneous Provisions) Act 1976, as amended, places on Barnsley Metropolitan Borough Council (the "Authority") the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

1.2 Objectives

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

In setting out its policy, The Council seeks to promote the following objectives:

- (i) The protection of public health and safety;
- (ii) The establishment of a professional and respected hackney carriage and private hire trade;
- (iii) Access to an efficient and effective public transport service;
- (iv) The protection of the environment;
- (v) Improve standards of service and the visibility of hackney carriages/private hire vehicles in support of the regeneration of Barnsley.

The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Authority's wish to facilitate well-run and responsible businesses, which display sensitivity to the wishes and needs of the general public.

1.3 Best Practice Guidance

In formulating this policy, advice contained in the 'Taxi and Private Hire Vehicle Licensing Best Practice Guidance' issued by the Department for Transport has been taken into account.

1.4 Status

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above.

The purpose of this document is to outline the guidelines which detail the Council's stance on the relevance of convictions and cautions in respect of applications for the grant of new licences, the renewal of existing hackney carriage and private hire drivers, operators and proprietor's licences.

Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. When the Council takes a decision to depart substantially from this policy: clear reasons will be given for doing so.

These guidelines have been produced to assist the General Licensing Regulatory Board (Licensing Board) in their decision-making and to maintain the consistency of the decisions made. They have also been formulated to provide clearer information to current licence holders and potential applicants, with a view to minimising cost and time spent by both the licence holder or applicant and the Council.

The aim of the licensing regime to which these guidelines relate is not to punish the applicant twice for an offence (which includes a conviction or caution), but to ensure that public safety is not compromised.

2 Qualifications and Requirements

2.1 Experience

A person is not able to successfully apply for a hackney carriage or private hire licence until they have held a UK driving licence for a minimum of 12 months or an equivalent foreign licence, issued by a competent licensing authority in another Sovereign State.

Section 51 (1)(b) of The Local Government (Miscellaneous Provisions) Act 1976

2.2 Suitability

The Local Government (Miscellaneous Provisions) Act 1976 deals with the issue of driver suitability:

*“...Council shall not grant a licence to drive a (Private Hire/Hackney Carriage Vehicle) unless they are satisfied that the person is a **fit and proper person** to hold a driver’s licence.”*

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:

“...the district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds –

- 1) that he / she has, since the grant of the licence,*
 - i) been convicted of an offence involving dishonesty, indecency or violence,*

or,

- ii) been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part of this Act,*

or,

2) *any other reasonable cause.*”

Therefore the wording of the legislation makes it clear that the Council may grant a licence ONLY if it is satisfied that the person is **“fit and proper”** – the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.

Whether someone is a “fit and proper person” to hold a licence is ultimately a matter of common sense. When considering whether someone should serve the public, the range of passengers that a driver may carry should be borne in mind for example, elderly people, unaccompanied children, the disabled, those who have had too much to drink, lone women, vulnerable people, foreign visitors and unaccompanied property.

Some areas give rise to particular concern, including -

- **Honesty and trustworthiness** – drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. They must not abuse their position of trust. *For example, any passenger would expect to be charged the correct fare for a journey and then be given the correct change; they would also expect a driver to hand in any article left by a passenger in a vehicle; and also to maintain confidentiality between driver and passenger.*
- **Not abusive** – drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels. In no circumstances should they take the law into their own hands.
- **A good and safe driver** – Passengers paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence. The standards expected of private hire driver and/or hackney carriage driver are higher than those of the ordinary motor vehicle driver. In certain circumstances, as set out in section 2.6, the Council will require existing drivers to give an undertaking to take and pass the appropriate private hire or hackney carriage DSA driving test or a driver improvement course as appropriate.
- **Familiarity** - Drivers are expected to have a good knowledge of the area that they are working in.
- **Health** – Drivers are expected to be physically and mentally fit to perform their role.
- **Language** – Drivers are expected to be able to read, speak and understand English, and must be able to make themselves easily understood by their passengers.

2.3 Protecting the Public

The overriding consideration for the Members of the Licensing Board is to protect the public. Having considered and applied the appropriate guidelines, the following question should be asked:

“Would you (as a member of the Licensing Board or other person charged with the ability to grant a hackney carriage/private hire driver’s licence) allow your daughter or son, granddaughter or grandson, spouse, mother or father, or any other person you care for or any vulnerable person you know, to get into a vehicle with this person alone?”¹

If the answer to this question is an unqualified yes, then a licence should normally be approved. If there are any doubts in the minds of those making the decision, then the licence must be refused, suspended or revoked. It is the responsibility of the applicant/licence holder to satisfy the Council that they are fit and proper.

2.4 Convictions

The Licensing Board are required to look at any past indicators (convictions including formal cautions, fixed penalties, speeding offences, etc) that may affect a person’s suitability to hold a hackney carriage/private hire driver’s licence and consider the possible implications of granting or renewing such a licence to that person. The imposition of a fixed penalty in place of a prosecution under any enactment may be considered a relevant indicator of suitability.

As part of the licence conditions, the applicant is required to disclose all fixed penalties, convictions and cautions. For this purpose the applicant will be asked to complete a “statutory declaration of convictions” form, prior to the grant or renewal of any licence. If it is later found that the applicant gave false information or failed to disclose convictions, formal cautions, fixed penalties, speeding offences etc, he / she will be required to attend a hearing of the Licensing Board where the licence will normally be revoked.

2.5 Soft information and information from other sources

Following the Bichard Enquiry the Council has been required to undertake enhanced CRB checks for all new drivers and Operators together with all existing drivers and Operators every three years. The Council may receive soft information through CRB checks or from other sources e.g. complaints from the public or intelligence from the Police and/or other agencies such as the Barnsley Safeguarding Children Board. Where this information calls into question whether or not the person is “fit and proper”, Officers may have no alternative but to refer the matter to the Licensing Board for determination.

¹ Paragraph 10.45 Taxi – Licensing Law and Practice Butterworths

2.6 Options for the Licensing Board

When determining an application or reviewing a licence the Licensing Board may:

- a) Take no further action / approve the licence
- b) Give a written warning
- c) Revoke / refuse the licence.
- d) For existing drivers they may ask the driver to give an undertaking that they will undertake and pass the appropriate hackney carriage or private hire DSA driving test. The driver will be required to complete the relevant test at his own expense, within three months, of the Licensing Board's decision, to prove his driving competency. Should the driver:
 - i) refuse to give an undertaking or
 - ii) fail to successfully complete the DSA driving test

within the prescribed period and without reasonable excuse then the Licensing Board will normally revoke the licence. The reason for revocation being that the driver will have failed to confirm to the board that they have taken steps to adequately address the manner of their driving and to show that they are a fit and proper person to hold a licence.

2.7 Offences by Licensed Hackney Carriage or Private Hire Drivers

Where a driver is convicted of an offence while licensed as a hackney carriage or private hire driver it is a legal requirement that they notify the Licensing Section of the Council. Where a conviction, caution or a fixed penalty is imposed on the licence holder for an offence covered in paragraphs 3.2 to 3.8, then the person will be required to attend a Licensing Board meeting and their licence will normally be revoked.

2.8 Time periods following offences

Where a time period is specified for an offence in part 3 below this should commence from the date of conviction or the restoration of the DVLA driving licence whichever is the later.

2.9 Multiple offences of differing types

There will be occasions where a driver has been convicted of a number of offences from different sections of part three e.g. drugs, dishonesty and violence.

In these cases it will be necessary for each driver to be assessed on their own merits and consideration should be given to the types of offences, the severity of the offences, the penalties imposed, how long ago the offences took place and the Councils standard timescales before a person becomes fit and proper.

2.10 Requirements for new applicants

The Council needs to ensure that all new applicants for licences to drive private hire vehicles and hackney carriages are competent to do so and therefore the following requirements will apply to new applicants:

- a) Where a person fails three consecutive theory tests within a four month period it will be unlikely that the person will have the appropriate skills and attributes to be a licensed driver with this Authority and therefore the person should be barred from undertaking any further theory tests for a period of at **least six months** to allow the person to develop the necessary skills, unless there are exceptional circumstances.
- b) At the date of application a medical questionnaire will not be accepted unless it has been signed by a medical practitioner within the last three months and contains the practice stamp.
- c) At the date of application the certificate of good character must have been completed, signed and dated by the referee within the last three months.
- d) At the date of application the Criminal Records Bureau check must have been completed within the last three months.
- e) At the date of application no more than 8 penalty points on their driving licence within the last 4 years, however, the number, type and frequency of an offence will be taken into account in deciding whether or not to grant a licence, see para 3.1 below for further guidance.

In the case of b), c) and/or d) above it may be necessary for further forms to be completed where the determination process for the licence is protracted.

An application will not usually be determined until the result of any pending criminal or motoring prosecution is known.

2.11 The provision of false information

If an applicant provides false information and/or makes a false declaration in relation to their application, the application will normally be refused because the applicant has been dishonest.

If a licence holder provides false information and/or makes a false declaration to the council then their licence will normally be revoked because the applicant has been dishonest.

2.12 Consideration of convictions generally

The general approach with regard to convictions, cautions or fixed penalty notices for existing licence holders or a person making an initial application for a driver's licence are as follows, subject to paragraphs 3.1 to 3.8 below:

- a) Where a driver has been disqualified from driving, the period since the restoration of their driving licence is at least twice the period of disqualification,

- b) No criminal convictions or caution which is not deemed to be spent in accordance with the provisions of the Rehabilitation of Offenders Act 1974, the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (SI 1975/1023) or the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2008 (SI 2008/3259).
- c) The council will normally treat a fixed penalty notice as a conviction for the purposes of determining applications.

3 Examples of conduct that could result in Refusal or Revocation of Driver's Licence

3.1 Driving Offences

Private hire and hackney carriage drivers are considered professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at **all** times. Any traffic offences show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicle or in the manner of their driving.

Convictions for traffic offences should not prevent a person from proceeding with the application for/renewal of their licence. However, the number, type and frequency of an offence will be taken into account. In some cases it may be appropriate to issue a licence together with a strong written warning as to their future conduct.

Any driver with EIGHT or more current points on their driving licence will be expected to go before a hearing of the Licensing Board to explain the circumstances of the offences. The board will normally adopt either of the approaches at c) or d) as set out in paragraph 2.6 above.

3.2 Motor Insurance Offences

The Council takes a serious view of motor insurance offences. An isolated incident in the past should not necessarily bar a new applicant from being issued with a licence however a period of at least three years should have elapsed before they are considered for a hackney carriage or private hire licence. For existing licence holders a conviction for a motor insurance offence, will normally result in revocation.

Two convictions for insurance offences on different occasions should raise serious doubts as to an applicant's suitability. At least 5 years should have elapsed before they are considered for a hackney carriage or private hire licence.

Where a person has three or more separate convictions for insurance offences, irrespective of the timescales for these, their application will normally be refused.

3.3 Sexual Offences

As hackney carriage and private hire drivers often carry unaccompanied and vulnerable passengers, any application where the person has a conviction or formal caution for a sexual offence will normally be refused.

Licence holders should also be aware that if the Licensing Authority receives notification from the police (or other Responsible Authority) that a driver is being investigated for a serious sexual offence, their licence will be suspended immediately pending a Licensing Board hearing (see also section 2.5).

Sexual offences include: offences contrary to the Sexual Offences Act 1956 and the Sexual Offences Act 2003, the making or possession of indecent photographs of children, soliciting, loitering or kerb crawling in connection with prostitution, living off immoral earnings and trafficking for the purposes of sexual exploitation.

3.4 Alcohol Related Offences

3.4.1 Vehicle related offences

The Council views driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence.

The offences that apply to this section include:

- Driving or attempting to drive with alcohol levels above the prescribed limit
- In charge of a vehicle, driving or attempting to drive when unfit through drink
- Refusal to provide a specimen of breath or blood for analysis
- Aiding and abetting another in the commission of such an offence

Where a person has three or more separate convictions, irrespective of the timescales for these, their application will normally be refused.

3.4.2 Non-vehicle related offences for applicants

An isolated conviction, caution or fixed penalty notice for drunkenness or S. 5 Public Order Act 1986 disorderly conduct, not associated with a motor vehicle and committed at least 12 months before the application will not normally result in an application being refused. The same considerations do not apply to existing licence holders, as any offence will have been committed whilst the holder of a licence.

3.5 Drug Offences

A serious view is taken of any drug related offence, because such offending involves issues of addiction and risk taking behaviour. Where a person has three or more separate convictions, cautions or fixed penalty notices, irrespective of the timescales for these, their application will normally be refused.

Drugs related convictions include: the possession, possession with intent to supply, supply, importation and production of controlled drugs, permitting premises to be used for supply or production of controlled drugs or the smoking of cannabis and the production of cannabis.

3.6 Violence and the causing of death during driving

As hackney carriage and private hire drivers maintain close contact with the public, any conviction, caution or fixed penalty for violence will be taken seriously by the Licensing Board a schedule of offences is attached as Appendix A.

A person convicted of an offence types 1 to 3 listed in Appendix A should normally have their licence refused or revoked until the following time periods have elapsed, unless the Rehabilitation of Offenders Act provides for a longer rehabilitation period:

| Offence type | |
|---------------------|--------------------|
| 1 | Permanently |
| 2 | 10 years |
| 3 | 7 years |

Where a person has two or more separate convictions for violence, irrespective of the timescales for these, their application will normally be refused.

3.7 Dishonesty

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining any lost property left in their vehicle.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. For these reasons a serious view is taken of any convictions involving dishonesty.

Offences of dishonesty shall include the following offences:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- False accounting
- Obtaining money or property by deception
- Other deception

- Perverting the course of justice
- Going equipped for burglary, theft or cheat
- Making off without payment
- Fraudulent use of vehicle document
- Aggravated vehicle taking, including being carried
- Taking a vehicle without the owner's consent, including being carried

Two convictions for dishonesty offences should raise serious doubts as to an applicant's suitability. In this instance, at least 5-10 years should elapse before an applicant is considered for a hackney carriage or private hire licence, unless the Rehabilitation for Offenders Act provides for a longer rehabilitation period.

Where a person has three or more convictions for dishonesty offences, irrespective of the timescales involved their application will normally be refused.

3.8 Offences under the Town Police Clauses Acts and Part 11 of the Local Government (Miscellaneous Provisions) Act 1976

The Council takes a serious view of offences under the above legislation, including offences such as operating without a licence or plying for hire. An isolated incident in the past should not necessarily bar a new applicant from being issued with a licence; however, a period of at least one year should have elapsed before they are considered for a hackney carriage or private hire licence.

Two convictions for offences under the above legislation on different occasions should raise serious doubts as to an applicant's suitability. At least 3 years should have elapsed before they are considered for a hackney carriage or private hire licence.

Where a person has three or more separate convictions for offences under the above legislation, irrespective of the timescales for these, their application will normally be refused.

3.9 Complaints

The Licensing Board should consider the history of all complaints made against the driver to determine whether the driver is a fit and proper person to hold a licence.

The Licensing Board will usually expect a complainant as well as the licence holder to attend a hearing so that both sides of the incident can be heard. If the complainant is not willing or able to attend the hearing then the complaint can still be heard.

When considering a complaint the Licensing Board shall have regard to the 'Licensed Driver Code of Good Conduct', when determining whether or not a complaint is made out and also in determining if the driver is a 'fit and proper' person to hold a licence.

3.10 Investigations and criminal prosecutions

In the event of an investigation by any other body and/or a criminal prosecution, the council will take whatever steps are reasonably necessary, including suspension of the licence, for the purpose of protecting the public in accordance with the current enforcement policy.

4 Periods Free from Conviction

The Rehabilitation of Offenders Act 1974 does not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

5 Compliance with Conditions and requirements of Licensing Authority

The Licensing Board may take into account a persons history whilst holding a licence, from this or any other authority. The Licensing Board may take into account, in deciding whether a person is a fit and proper person to hold (or to continue to hold) a licence, such matters as the record of complaints about them, also their compliance with licence conditions and their willingness to co-operate with the reasonable requests of Licensing Officers.

Where a person received three formal warnings for breach of licence conditions in a 12 month period, the licence will be suspended and the person asked to attend a hearing of the licensing board. Where these breaches could affect public safety, for items such as; failure to complete daily vehicle checks, defective tyres, incorrect signage, the Licensing Board will normally revoke the persons licence.

6 Re-application following refusal or revocation

Where a Licence has been refused or revoked by the Council (or another Local Authority) a further application will normally be refused if received within one year from the date of the refusal/revocation, as it will be deemed that the persons circumstances will not have changed significantly within that period to make them 'fit and proper'.

7 Migrant Workers

In April 2007 the Licensing Board agreed enhanced procedures for dealing with applications from migrant workers who have only resided in the United Kingdom for a short period of time. Where appropriate migrant workers will be required to meet the requirements of this policy.

8 Rights of Appeal

In all cases where the Council:

- refuse an application for a licence
- refuse to renew a licence
- suspend a licence, or

- revoke a licence

The driver will have the right of appeal to the Licensing Board and /or Magistrates' Court.

In all cases where a licence is refused, revoked or suspended the driver will be notified in writing of his/her rights of appeal.

Any applicant refused a licence on the grounds that the Licensing Board is not satisfied he/she is a fit and proper person to hold such a licence, or whose licence has been suspended, revoked or had a condition attached has a right of appeal by way of written complaint, to the Magistrates Court within 21 days of the notice of decision.

9 Conclusion

Any applicant having a previous or current conviction should not necessarily prevent them from obtaining a hackney carriage or private hire licence. However, there are certain offences that are considered so serious that they will usually prevent a person obtaining a licence. It is this Council's policy to consider the safety, protection and well being of the general public by ensuring all licensed drivers are in good health, are safe and competent drivers and are able to maintain their vehicles to an acceptable standard.

A person who has committed an offence and who is made to wait for a rehabilitation period to lapse prior to their application being accepted is more likely to value their licence and act accordingly.

The Licensing Board should bear in mind that the purpose of the actions it takes should not be to punish or financially penalise licence holders, but rather to ensure public safety.

10 Glossary

| | |
|------------------------------|--|
| <u>Appeal</u> | A means by which a Board hearing decision can be reviewed by the Magistrates Court or the Crown Court. The decision of the Board may be upheld or overturned. |
| <u>Board</u> | Local Councillors gathered together to discuss the suitability of a person to hold a taxi related licence. |
| <u>Conviction</u> | Judicially determining that someone is guilty of a crime or the acceptance of guilt by admitting a caution or accepting fixed penalty notice for a criminal offence. |
| <u>DSA</u> | Driving Standards Agency. |
| <u>Fit and Proper Person</u> | A person who is: a safe and competent driver, of no threat to the general public, has a good knowledge of Barnsley borough, is healthy, has a good character and is therefore deemed fit and able to hold a licence. |

| | |
|---|---|
| <u>Hackney Carriage</u> | A vehicle that can carry passengers for hire or reward, can be hailed by a prospective passenger and can park on a rank to await the approach of passengers; a car available for public hire. |
| <u>Licensed Driver Code of Good Conduct</u> | The code of conduct which sets out the standards expected of a licensed driver. |
| <u>Mitigating Circumstances</u> | The conditions surrounding a conviction. These conditions may alter the seriousness of a crime. |
| <u>Plying for Hire</u> | To actively invite or responding to a hail for a taxi with the intent to charge a specific fare for the service. |
| <u>Private Hire Vehicle</u> | A car which must be pre-booked with a private hire operator. This type of vehicle cannot stand in a rank or ply for hire. |
| <u>Proprietor</u> | The person in possession of a vehicle which maybe the subject of a hiring agreement or hire purchase agreement. |
| <u>Operator</u> | This is the business section, which in this country can cover anything from sole proprietor (not being just a driver or proprietor) up to the largest firm in the country, which runs 2,500 vehicles. |
| <u>Rehabilitation</u> | The period to which the standing authority feels a person has repented their crimes. |
| <u>Revoke</u> | To take back something for an indefinite period of time. |
| <u>Suspend</u> | To hold something away from its owner for a period of time. |
| <u>Written Warning</u> | A letter advising that although a conviction was not serious enough to have warranted the suspension or revocation of the licence, the offence committed as unacceptable and has caused concern among the Board as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the consequences could be much more severe, possibly leading to the suspension or revocation of the licence. |

Appendix A – Violent Offences and offences of causing death while driving

The list of offences below shows examples of types of violent offences and is not meant to be an exhaustive list.

Type 1

- Murder
- Manslaughter
- Arson intending to endanger life or being reckless as to the endangerment of life
- Causing death by dangerous or careless driving, including:
 - Causing death by careless driving when unfit through drugs
 - Causing death by careless driving when unfit through drink
 - Causing death by careless driving with alcohol level above the limit
 - Causing death by careless driving then failing to supply a specimen for analysis
 - Causing death by careless driving whilst unlicensed or uninsured
 - Manslaughter or culpable homicide while driving a vehicle
 - Causing death by dangerous driving

Type 2

- Arson
- Unlawful wounding or grievous bodily harm with intent
- Riot
- Violent disorder
- Kidnapping
- False imprisonment
- Threats to kill
- Unlawful possession of a firearm, including aggravated firearms offences
- Robbery

Type 3

- Unlawful wounding or causing grievous bodily harm
- Assault occasioning actual bodily harm
- Affray
- Possession of an offensive weapon
- Possession of a blade or sharply pointed article
- Threats to commit criminal damage

Other violent offences

- Common assault
- Assault on the police

- Assault with intent to resist arrest
- S. 4 Public Order Act 1986 (fear or provocation of violence)
- S. 4A Public Order Act 1986 (intentional harassment, alarm or distress)
- Criminal damage

Detailed Recommendations for Cabinet Report “Review of Taxi Licensing in Barnsley”

1. The Council formally adopts Part II of the Local Government (Miscellaneous Provisions) Act 1976 for the whole of the Metropolitan District of Barnsley and makes no distinction between one area and another for the purposes of licensing hackney carriage and private hire services.
2. That the Licensing conditions for drivers, operators and vehicles attached as Appendix 3 be adopted, subject to amendment as operational changes are implemented
3. That the Driver Convictions Policy and Statement of Standards attached as Appendix 4 are adopted
4. The outcomes of this report are not be reviewed for a period of three years, unless there is an urgent need to do so, e.g. a change to legislation, or changes are required as the proposals in this report are implemented.
5. That the Licensing application process be brought up to date to deliver a smoother and more effective service for the trade, and to reflect the need for a greater focus on enforcement:
 - a. Only one version of each application form, administered and controlled electronically via the website
 - b. Re-introduction of a vehicle licence application form
 - c. Robust document control
 - d. Drivers to be offered a choice of one or three year licences
 - e. Three year licences to be tied into the CRB renewal process for private hire or dual driver licences.
 - f. Dual licences (i.e. to drive both hackney carriages and private hire vehicles) to be granted to all applicants, with an opt-out option
 - g. Late renewals will no longer be required to undertake a DSA test, unless records suggest that one is required, but they will be required to pay a new application fee
 - h. On-line access to the DVLA database to be implemented, removing the need for applicants to submit their original driving licence on application or renewal

- i. Operators licences to be granted for 5 years, in line with Operators' basic CRB renewal dates
 - j. The Council will prepare comprehensive guidance on the expected timescales for the respective licensing application requirements – CRB checks, Medicals, DSA driving tests, theory tests etc
 - k. The current requirement for drivers to undertake the DSA driving test will remain, subject to consideration of suitable alternatives, e.g. the use of local driving instructors
6. That the vehicle licensing and testing process be changed as follows:
 - a. A risk-based approach to vehicle testing to be introduced, reflecting pass and failure rates for individual vehicles and moving towards ad hoc vehicle testing rather than a strict number of tests per year based on the age of the vehicle. There will be a minimum of one test per year for all vehicles.
 - b. Vehicle testing should no longer be limited to Smithies Depot. An approved list of Barnsley MOT test stations will be produced, whereby MOT test certificates will be issued rather than the current Certificates of Compliance. Additional vehicle conditions required by the Council, such as vehicle signage, will be checked through regular monitoring by the Council
 - c. Accidents involving licensed vehicles must be reported to the Licensing Team. A simple process and report form will be introduced and communicated to the trade.
 - d. Tinted glass to be allowed provided it meets VOSA standards
 - e. Fire extinguishers will no longer be a vehicle condition
7. The Trade Liaison Group should continue reflecting the following terms of reference:
 - a. Meetings to take place bi-monthly
 - b. Responsibility for implementing recommendations in this report as appropriate
 - c. Main focus to be on operational issues of concern to the Group
 - d. An annual schedule to be produced detailing regular matters that need to be considered by the group and outlining where possible when co-opted stakeholders will be invited, e.g. an annual presentation of budget figures

- e. All terms of reference and policies, procedures, conditions and processes to be captured in a Taxi Licensing Manual, appropriately controlled and freely available to all stakeholders
- f. Regular attendance by key stakeholders such as the Police, Smithies Depot Manager, Highways and Planning, possibly on a twice yearly basis.

8. Consultation and Communication

- a. It is accepted that the taxi trade is a key consultee in many development proposals within the borough. While it is not within the gift of Regulatory Services to direct how consultation is carried out by other services, it will facilitate linkages with the trade wherever possible, including the ITA
- b. The BMBC website will be used as a vehicle for communicating with the trade, and will be used to direct the trade to consultations that may be relevant, and to important items of information.

9. Officer Panels

The Licensing Board should continue to carry out hearings into driver fitness and other taxi matters. Officer panels will be considered in 12 months time after a fuller assessment into the effectiveness of the current arrangements, and following the full implementation of the outcomes of this report.

10. Delimiting the Number of Hackney Carriages

Following the Demand Survey carried out in 2011, the current limit on Hackney Carriages should be retained. This will be reviewed in August 2014 when the next Demand Survey is due and when the outcomes of the current Law Commission review into taxi licensing is complete

11. Licensed Vehicle Access

The Council and the Trade will work together to ensure that the interests of the trade are represented when any developments are proposed in the borough, particularly where there are physical infrastructure issues, for example hackney ranks and drop off/pick up points.

