

Public Document Pack

MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 23 June 2021
TIME:	2.00 pm
VENUE:	The Assembly Room - The Civic

AGENDA

Register to Attend

Please note that in order to ensure that the meeting complies with current Covid-19 restrictions and public health advice, members of the public must pre-register if they wish to attend the meeting.

Anyone who wishes to attend should email governance@barnsley.gov.uk, no later than 10.00am on Tuesday 22nd June 2021.

1 Declaration of Interests

To receive any declarations of pecuniary and non-pecuniary interest from Members in respect of items on the agenda.

2 Minutes (*Pages 3 - 4*)

To accept as a correct record the minutes of the meeting held on 28th October, 2020.

3 Taxi and Private Hire Policy Review Consultation 2021 (*Pages 5 - 162*)

The Service Director Legal Services will submit a report on the proposed Draft Taxi and Private Hire Licensing Policy 2022-27 and seeking approval for it to be submitted for public consultation.

To: Chair and Members of General Licensing Regulatory Board:-

Councillors Green (Chair), Bowser, Bruff, A. Cave, Cherryholme, Clarke, Danforth, K. Dyson, Eastwood, Franklin, Greenhough, J. Higginbottom, Hunt, Lodge, Markham, Newing, Osborne, Ramchandani, Shepherd, Spence, Stowe, Sumner, Tattersall, Wilson, Wraith MBE and Wray

Shokat Lal, Executive Director Core Services
Matt Gladstone, Executive Director Place
Kevin Glover, Strategic Manager - Transport
Garry Kirk, Service Director Legal Services
Sajeda Khalifa, Solicitor
Debbie Bailey, Regulatory Services Field Officer

Please contact William Ward on email governance@barnsley.gov.uk

Tuesday, 15 June 2021

MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 28 October 2020
TIME:	2.00 pm
VENUE:	THIS MEETING WILL BE HELD VIRTUALLY

MINUTES

Present

Councillors Wraith MBE (Chair), Cherryholme, Clarke, Danforth, Eastwood, Green, Greenhough, C. Johnson, Kitching, Lodge, McCarthy, Saunders, Sumner, Tattersall and Wilson

1 Declaration of Interests

There were no declarations of pecuniary and non-pecuniary interest from Members in respect of items on the agenda.

2 Minutes

The minutes of the meeting held on the 9th September, 2020 were taken as a correct record.

3 Enforcement Update

The Service Director Legal Services submitted a report providing an overview of the work Licensing Officers had been undertaking to advise and support the Hackney carriage and Private Hire Trade during the Covid pandemic.

Members were informed that there had been very few changes in respect of Taxi Regulations since the last meeting other than following the Government's announcement on 22nd September, 2020 it was a legal requirement for passengers to wear face coverings in any private hire or hackney carriage vehicle, unless customers had an exemption due to age, disability or medical reasons. It was also noted that whilst drivers were advised and encouraged to also wear face coverings to keep themselves and customers safe, this was not mandatory. It was reported that taxi marshals had been monitoring the number of drivers wearing facemasks and were happy to report that all Hackney Carriage drivers were wearing face coverings whilst carrying passengers.

In the ensuing discussion, the following matters were raised:

- Drivers were not permitted to challenge any customer to prove they had an exemption from wearing a face covering. However, members were informed that drivers were permitted to refuse to carry any passenger who may be presenting symptoms. It is covered under taxi legislation that a driver can refuse carriage on the grounds of an infectious disease for their own and future passengers safety.

- Members were informed that all drivers were advised to inform Licensing Officers of any refusal to carry a passenger, in the event that a situation did arise then it would be on record and a full investigation could be carried out
- The issue of the cleaning of vehicles after all customers was raised and whilst it was noted this was not mandatory, drivers had been strongly encouraged to carry out cleaning of door handles, seatbelt clips and buckles between each fare
- Members wished to place on record that drivers had been and continued to be doing an excellent job in complying with covid regulations and keeping themselves and passengers safe.

Members received an update informing them of a survey that had been sent out to all licensed drivers asking for information in relation to their average daily mileage, distances of their average fares, most frequent journeys and their views in relation to electric vehicles and any obstacles they would foresee in purchasing one now and in the future. The survey was to enable Officers, in collaboration with the Energy Saving Trust, to understand how to support taxi and private hire drivers to switch to electric vehicles in the future in order to support the Boroughs transition to a zero carbon future as part of the Council's Zero 45 programme. Members noted that drivers had been asked to answer the questionnaire as if they were in normal times and not in the current unprecedented times. The information gathered would be used as intelligence as to which areas the trade would need targeting to install charging points across the Borough.

Members were informed that this was not something that would happen in the short term but that it would take several years in order to gather vital information to ensure that money is spent wisely in placing resources across the Borough for the Trade to use.

RESOLVED that the report be noted and the Board place on record it's thanks and appreciation to the staff within the Licensing Service for all their hard work in ensuring the continued safety of the drivers and travelling public during the Covid pandemic.

Chair

Item 3

**Report of the Service Director Legal Services
to the General Licensing Regulatory Board
to be held on the 23 June 2021**

Taxi and Private Hire Policy Review Consultation 2021

1. Purpose of Report

The purpose of this report is to inform Members and seek views on the Taxi and Private Hire Licensing Policy Consultation.

2. Background

The Department for Transport (DfT) has recommended that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include policies on convictions, a 'fit and proper' person or 'suitability' test, conditions of licence and vehicle specifications and standards. A copy of the DfT statutory guidance is attached as appendix 1.

When formulating any taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public by ensuring that the licensing regime protects the vulnerable.

In respect of this we have produced our Taxi and Private Hire Licensing policy and are now in a position to carry out the statutory consultation before the final policy is determined. A copy of the Taxi and Private Hire Licensing Policy is attached as appendix 2.

3. Current Position

The Council is responsible for the regulation of taxi and private hire services within its area.

We have a statutory duty to have regard to and fully recognise the importance of the new statutory standards published by the Department for Transport in July 2020. Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, it is considered that all passengers will benefit from the recommendations contained in it.

This policy sets out the requirements and standards that must be met by those working within the trade as drivers, vehicle proprietors or operators.

Changes have been made to some existing conditions of licence to ensure they are accurate and reflect current practises and to ensure that we are applying consistent standards with the other Licensing Authorities in South Yorkshire.

The principal purpose of taxi and private hire licensing is to protect the public and promote public safety.

In order to reflect any changes in the taxi and private hire sector, either locally or nationally, the Council undertakes to review this policy at least once every five years but will also consider a policy review at any time should there be significant issues arising in the interim.

The consultation will run for 10 weeks commencing on 25 June 2021 and finishing at 00:00 hours on 3 September 2021.

A brief summary of changes is attached as appendix 3.

4. Proposal

Members are asked to consider the consultation document and provide any views to the Licensing Officer in writing no later than 00:00 on the 3 September 2021.

5. Recommendation

- (i) That the report be noted, and the Taxi and Private Hire Licensing Policy be approved for public consultation to take place for 10 weeks commencing on 25 June 2021 and finishing at 00:00 hours on 3 September 2021; and
- (ii) That a report on the outcome of the public consultation be submitted to the September meeting of this Committee for consideration and referral to Cabinet and Council for final approval.

6. Officer Contact

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Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:

 **LLG**
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

Contents

Foreword	2
Chapter 1: Introduction	3
Chapter 2: Offenders and Offending - An Overview	5
Risk of re-offending:	7
Chapter 3: 'Taxi' Licensing Overview	9
Taxi Drivers	9
Private Hire Operators	13
Vehicle Proprietors	15
Chapter 4: Guidance on Determination	17
Pre-application requirements	17
Vehicles:	17
Drivers:	18
Operators:	18
Drivers	20
Crimes resulting in death	21
Exploitation	21
Offences involving violence	21
Possession of a weapon	21
Sex and indecency offences	21
Dishonesty	22
Drugs	22
Discrimination	22
Motoring convictions	22
Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving	22
Other motoring offences	23
Hackney carriage and private hire offences	23
Vehicle use offences	23
Private Hire Operators	23
Vehicle proprietors	24
Acknowledgements	25

Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC
Cornerstone Barristers

April 2018

Chapter 1: Introduction

- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

¹ Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

² [2007] 1 WLR 2067

Chapter 2: Offenders and Offending - An Overview

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.³ With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm⁴. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

³ DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

⁴ Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud⁵ noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place⁶.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future⁷. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%⁸. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences⁹.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity¹⁰. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population¹¹. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

⁵ Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁶ Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁷ Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

⁸ Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

⁹ Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

¹⁰ McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

¹¹ Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”¹².
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”¹³.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over¹⁴. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships¹⁵. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males¹⁶.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist¹⁷. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance¹⁸. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

¹² National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

¹³ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

¹⁴ Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

¹⁵ Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

¹⁶ Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

¹⁷ Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

¹⁸ Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3rd Edition. Oxford: Oxford University Press.

ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”¹⁹.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

¹⁹ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

Chapter 3: 'Taxi' Licensing Overview

- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory

criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person²⁰.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK²¹.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.²²
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*²³. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’²⁴
- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

²⁰ Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

²¹ Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

²² “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1st December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

²³ [2002] EWHC 1145 (Admin), [2003] RTR 199

²⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 10.21

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

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

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”²⁵

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

3.20 Some of these are universal, such as medical assessments²⁶. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

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

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared²⁷) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker²⁸.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks²⁹ and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

²⁵ Local Government (Miscellaneous Provisions) Act 1976 s57(1)

²⁶ See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

²⁷ “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

²⁸ See *Adamson v Waveney District Council* [1997] 2 All ER 898

²⁹ “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability³⁰.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account³¹. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

³⁰ As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

³¹ *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

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

Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority³². A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person³³.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”³⁴
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

³² See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

³³ Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

³⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 12.35

obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation³⁵. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence³⁶ and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

³⁵ See s57(1)(c) of the 1976 Act.

³⁶ S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.

satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”³⁷

³⁷ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 8.98

Chapter 4: Guidance on Determination

- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

Pre-application requirements

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

Vehicles:

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

Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership³⁸) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

³⁸ Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction³⁹. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁴⁰.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

³⁹ This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

⁴⁰ This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

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

Exploitation

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

Offences involving violence

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

Possession of a weapon

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

Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Dishonesty

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

Drugs

- 4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

- 4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

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

Acknowledgements

In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

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Lawyers in Local Government (LLG). www.lawyersinlocalgovernment.org



National Association of Licensing and Enforcement Officers (NALEO). www.naleo.org.uk



BARNSLEY
Metropolitan Borough Council

Draft Taxi and Private Hire Licensing Policy

2022 TO 2027

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Taxi and Private Hire Licensing Policy : 2022 to 2027

BARNSLEY METROPOLITAN BOROUGH COUNCIL

The need for a policy

This is the policy of Barnsley Metropolitan Borough Council ('the Council') in respect of its powers when exercising taxi and private hire licensing functions.

The Department for Transport (DfT) has recommended that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include policies on convictions, a 'fit and proper' person or 'suitability' test, conditions of licence and vehicle specifications and standards.

When formulating any taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public by ensuring that the licensing regime protects the vulnerable.

In order to reflect any changes in the taxi and private hire sector, either locally or nationally, the Council undertakes to review this policy at least once every five years but will also consider a policy review at any time should there be significant issues arising in the interim.

Introduction

The Barnsley Future Council plan defines an achievable vision for the future in which Barnsley is an innovative and vibrant 21st Century market town at the centre of a modern dynamic economy and is a great place to live. Priorities to transform the Borough include plans for regeneration of the town centre, which will provide a safe, vibrant and diverse environment whilst achieving a new and sustainable economic future.

The urban core of Barnsley is home to 82,000 people. Barnsley town centre is the focus for the Borough's main shopping, administrative, commercial and entertainment activities. It has long been famous for its market, and more recently has become noted for its expanding club scene and night life. To the west of the urban core is the lightly populated attractive hilly country centred on the neighbouring market town of Penistone. To the south and east, and separated by open land, are the dispersed towns and villages of the former coalfield, which are the home to some 95,000 people.

The Barnsley Urban Area will play a pivotal role in regeneration and the town centre itself will be transformed into a modern urban living space offering shoppers and visitors exciting retail, recreational, entertainment and cultural experiences that will enable it to compete successfully with neighbouring centres. Regeneration in the Borough's rural areas will be based on diversification and sustainable development. Cultural and leisure facilities, appropriate in type and scale, will be encouraged in the smaller market towns.

Integral in making Barnsley a great place to live is ensuring that its communities are attractive, safe living environments with convenient access to good quality local services and amenities, including leisure, entertainment and cultural facilities.

Neighbourhoods must be clean, safe and secure and their environments respected and cared for. They must also be friendly and caring places where people are welcome from all backgrounds and cultures and both young and old alike will feel part of the community.

In this regard, the Council recognises local residents' needs for a safe and healthy environment in which to work and live and the importance of having both safe and well-run taxi and private hire services in the Borough.

The Council therefore acknowledges the valuable contribution that taxi and private hire vehicles make to the local economy.

General principles and legislative requirements

The Council is responsible for the regulation of taxi and private hire services within its area.

In exercising its discretion when carrying out its regulatory functions, the Council will have regard to the powers contained in the Town Police Clauses Act 1847, as amended, and the Local Government (Miscellaneous Provisions) Act 1976.

In addition, The Policing and Crime Act 2017 enabled the Secretary of State for Transport (DfT) to issue statutory guidance on exercising taxi and private hire vehicle licensing functions which was designed specifically to protect children and vulnerable individuals over the age of 18 from harm when using these services.

The Council fully recognises the importance of these new statutory standards published by the DfT in July 2020 and has a statutory duty to have regard to the DfT's Guidance. Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, it is considered that all passengers will benefit from the recommendations contained in it.

The Council will work in partnership with other local authorities, statutory bodies and agencies, especially those located in South Yorkshire, to ensure, wherever possible, that a consistent approach is taken on licensing matters across the region.

The principal purpose of taxi and private hire licensing is to protect the public and promote public safety.

This policy sets out the requirements and standards that must be met by those working within the trade as drivers, vehicle proprietors or operators.

References in this policy to a **taxi** means a licensed hackney carriage. A hackney carriage or taxi is a vehicle immediately available to transport the public with no more than 8 passenger seats, and which is licensed to ply for hire. This means that it may stand at ranks, be hailed in the street by members of the public or even undertake pre-booked work.

A **private hire vehicle** is a vehicle licensed to carry no more than 8 passengers, but which must be pre-booked in advance by a customer through a licensed private hire operator. Unlike a taxi, a private hire vehicle cannot ply for hire in the street or any public place and can only be hired in advance.

The Council will carry out its licensing function with a view to promoting the following:

- The protection of the public
- Safeguarding children and the vulnerable
- The safety and health of the public
- Vehicle safety, comfort and access
- Environmental sustainability

Too restrictive an approach can work against the public interest so in carrying out the licensing function the Council will aim to strike a fair balance between protecting the public and encouraging local taxi and private hire businesses to thrive

The Council's licensing requirements will be proportionate to the risks they are designed to address, the priority being to ensure that drivers and operators are 'fit and proper' persons to hold a licence, and vehicles are safe, comfortable and appropriate for use, and maintained in a safe condition for the duration of the licence

Aims and Objectives of the Policy

This policy, along with the accompanying appendices, sets out the Council's approach when it comes to exercising the taxi and private hire licensing function. The Policy is intended to guide the General Regulatory Licensing Board, its Panel, and any officers acting with the delegated authority of the Committee, when considering applications for driver, vehicle and operator licences.

Included in the various appendices, are:

- the Council's current conditions of licence;
- the hackney carriage bye laws;
- the Council's approach to applicants/licensees who have criminal convictions;
- general guidance notes and conditions of application;
- enforcement policy;
- codes of practice

The policy also aims to provide guidance to applicants on the general approach to licensing in the Borough.

Every application to the Council will be dealt with on its own individual merits.

The policy will be reviewed at least once every five years but will be kept under review during that time in case any amendments or additions are required at any time.

The policy is not intended to limit the powers of the Council or to remove any discretion it has within the law, which allows it to depart from this policy if the individual circumstances of any case merit such a decision. In such cases, the Council will always set out, in writing, any reasons for departing from its policy.

Decision Making

The powers of the Council may be carried out by:

- The General Licensing Regulatory Board;
- The General Licensing Regulatory Panel; or,
- by one or more officers acting under the delegated authority of the Council

Many of the licensing processes and procedures will be largely administrative with no obvious areas of contention. In the interests of efficiency and effectiveness officers of the Council will generally carry these out.

Authorised officers of the Council will also investigate complaints and take any action as appropriate, in accordance with the Council's Enforcement Policy.

Each application for a licence will be considered:

- On its own individual merits;
- In accordance with this policy;
- With reference to the 1976 Act or Town Police Causes Act 1847;
- In accordance with DfT Best Practice Guidance;
- DfT Statutory Guidance 2020;
- Having regard to Section 149 of the Equalities Act 2010

The Council is responsible for the regulation of taxi and private hire services within its own area. This means it is able to reach its own decisions on policy and also on individual licensing issues.

The overriding aim, in all cases, will be to ensure the safety and protection of the public.

When making decisions, or taking other action, the Council will aim to be open and transparent and will be prepared to give full and detailed reasons for those decisions. All those that have the power to make decisions will be required to undertake training which will cover not only licensing procedures, but human rights, natural justice, safeguarding, disability and equality awareness and the legal principles involved in decision making.

Administration, Exercise and Delegation of Functions

A policy is only effective if it is administered properly. The taxi and private hire licensing functions are classed as 'non-executive' in that they are functions of the Council rather than its Executive (such as the Cabinet).

These functions include the determination of licence applications, along with the attachment of conditions and the power to suspend or revoke licences. All of these functions can be delegated to a committee, a sub-committee or an officer of the Council.

The Council has established the General Licensing Regulatory Board to administer the wide range of licensing decisions and functions which the Council is required to administer.

The Board has been delegated certain powers and functions and has established a General Licensing Regulatory Panel to deal specifically with matters relating to the regulation of taxi and private hire services.

The power to decide most of the non-contentious applications has been delegated to officers.

The agreed delegation of decisions and functions to the General Licensing Regulatory Board, its Panel and officers is set out below.

Within this agreed delegation of decisions and functions officers still have the discretion to refer an application or other matter to the Board or its Panel if it is considered appropriate in the circumstances.

General Licensing Regulatory Board

Subject to:

- the overall policy framework of the Council; and
- having regard to the Council's safeguarding arrangements and duties and particularly in relation to the prevention of Child Sexual Exploitation;

The Board exercises the functions of the Council in relation to:

Taxi and private hire licences:

- (a) Determining licence applications which have not been determined by the Service Director Legal Services pursuant to their delegated powers, where consideration by the Sub-Committee is not appropriate.
- (b) Receiving reports for information on the suspension and revocation of licences and also to suspend and/or revoke licences where adverse reports have been received in those instances where the Service Director Legal Services has referred the matter to the Board for a decision as to whether disciplinary action would be appropriate.
- (c) Receiving, at regular intervals, a report of all licences issued, renewed, or refused.
- (d) Receiving an annual report of all hackney carriage and private hire licences issued or renewed where the vehicle in question is over the age of five years.
- (e) Receiving periodic reports of the Service Director Legal Services on random inspections carried out.
- (f) Varying, amending or revoking the standard conditions of taxis, private hire operators, vehicle and drivers' licences.
- (g) Determining the fees payable for the issue and renewal of hackney carriage and private hire licences (including inspections), subject to the consideration of any policy aspects by Cabinet and / or full Council as appropriate.
- (h) Determining the hackney carriage fare tariff from time to time, subject to the consideration of any policy aspects by Cabinet and/or full Council as appropriate.
- (i) After consultation with the Head of Highways and Engineering to approve the siting or relocation or removal of hackney carriage ranks and to authorise the appropriate statutory notices.

General Licensing Regulatory Board Panel (General Licensing Sub-Committee)

The General Licensing Sub-Committee is comprised of any 3 Members of the General Licensing Regulatory Board:

- a) To determine taxi and private hire licence applications which have not been determined by the Service Director Legal Services pursuant to their delegated powers.
- b) To suspend and/or revoke taxi and private hire licences where adverse reports have been received in those instances where the Service Director

Legal Services has referred the matter to the Board for a decision as to whether disciplinary action would be appropriate.

- c) To determine appeals against the suspension or revocation of taxi or private hire operators, vehicle and drivers' licences.
- d) To determine applications for or suspension / revocation of licences or appeals against suspension or revocation of licenses falling within the remit of the General Licensing Regulatory Board when referred to it for a decision by the Service Director Legal Services.

Delegations to Officers from the General Licensing Regulatory Board

The Service Director (Legal Services) is delegated the powers:

- (a) To exercise the Council's powers in relation to the Licensing aspects of the following legislation:
 - Local Government Miscellaneous Provisions Acts 1976
 - Town Police Clauses Act 1847

And, notwithstanding the generality of the above:

- (b) Under the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 to:
 - i. issue taxi licences and private hire licences, when he / she is satisfied that the application fulfils the statutory requirements and any criteria or policies of the Council for the time being in force;
 - ii. in consultation with the Chairperson of the Licensing Regulatory Board, refuse applications for taxi and private hire licences where he is not satisfied that the application fulfils the statutory requirements and any criteria or policies of the Council for the time being in force, subject to any such decisions being reported for information to the next meeting of the Licensing Regulatory Board;
 - iii. to suspend Hackney Carriage and Private Hire Vehicle Licences on vehicle defects being found;
 - iv. to suspend or revoke licences in other circumstances those at (iii) above, and to report the action to a subsequent meeting of the General Licensing Regulatory Board or Sub-Committee.
- (c) To determine applications for minibus permits of those vehicles under the control of the Council.

Human Rights and the Right to a fair hearing

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for the Council to act in a way that is incompatible with the Convention right.

In conducting its business, the Council will have particular regard to the following relevant provisions of the first protocol of the European Convention on Human Rights:

Article 1 - Every person is entitled to the peaceful enjoyment of his or her possessions, for example the possession of a vehicle or operator's licence.

Article 6 - That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Public safety remains the paramount consideration in all licensing decisions, but the discharge of licensing functions will also be undertaken in accordance with the following general principles:

- policies will be used as internal guidance and supported by a member/officer code of conduct;
- any implications of the Human Rights Act will be taken into account;
- the rules of natural justice will be observed;
- all decisions will be reasonable and proportionate;
- hearings will be conducted fairly and will allow for appropriate consideration of all relevant factors;
- those with the powers to make decisions will avoid bias (or even the appearance of bias) and any predetermination

Enforcement

The principal purpose of taxi and private hire licensing is to protect the public and promote public safety. To this end the Council aims to provide an efficient, targeted and proportionate regulatory service to those it regulates.

In general, action will only be taken in accordance with agreed enforcement principles and in line with the Council's own enforcement policy. The key principles of consistency, transparency and proportionality will be maintained.

The Council endorses the principles of good enforcement as set out in the Enforcement Policy published and adopted by Borough – see **Appendix M**.

The Council will take enforcement action where it considers it necessary and proportionate to do so.

The Government's Regulator's Code was brought into force in 2014 which states that the Council should:

- Carry out their activities in a way that supports those they regulate to comply and grow;
- Provide simple and straightforward ways to engage with those they regulate and hear their views;
- Base their regulatory activities on risk;
- Share information about compliance and risk;
- Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply;
- Ensure that their approach to their regulatory activities is transparent

The Council will work closely with its neighbouring authorities in South Yorkshire, including where the need arises, jointly authorising officers from other authorities in the area so that compliance and enforcement action can be taken against licensees from outside the Barnsley area.

The Council will ensure that drivers are aware of the policies that they must adhere to and are properly informed of what is expected of them and the repercussions for failing to do so.

The Council will also provide a clear, simple and well-publicised process for the public to make complaints about drivers, vehicle proprietors and operators. This will enable the Council to better target compliance and enforcement activity and will also provide a further source of intelligence when considering the renewal of licences and of any additional training for licensees if it is considered appropriate in the interests of public safety.

Safeguarding and Child Sexual Exploitation

The protection of children from harm includes their protection from physical and/or psychological harm. The Council recognises the Barnsley Safeguarding Children Board as the responsible authority for the protection of children from harm. The Council will consult with the Barnsley Safeguarding Children Board on any matter which raises concerns regarding the safety of children.

One of the key aims of this policy is to protect the public and safeguard children and the vulnerable. For this reason, the Council believes that all applicants for a driver's licence, and all existing licensed drivers, should undertake basic safeguarding training.

All drivers are expected to report any suspicion or concerns that a child or young person is being transported for the purposes of sexual abuse. Where a driver becomes aware or concerned that they or other drivers are transporting a young person or a number of young people to specific premises or venues, either accompanied or alone, on a regular basis, and they suspect the young person may be subject to exploitation, they are required to report their concerns to South Yorkshire Police.

The Council considers that those in the taxi and private hire vehicle industry can play a crucial role in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, those working within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults.

However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger. To that end the Council provides appropriate safeguarding advice and training to the taxi and private hire trade. This is delivered by a Designated Officer for safeguarding. As a minimum, all licensed drivers must undertake safeguarding training.

The Council's programme has been developed to help drivers and operators:

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

Safeguarding awareness training will include the ways in which drivers can help to identify 'county lines' exploitation by being aware of the following warning signs:

- children and young people travelling in taxis or private hire vehicles alone;
- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;

- paying for journeys in cash or prepaid.

The key purpose of safeguarding training is to make licensees aware of what to do if they believe a child or vulnerable person is at risk of harm.

Failure to report a suspicion or concern that a young person may be being sexually exploited could lead to the suspension or revocation of the driver's licence.

Responsibility to report matters of concern is not solely confined to drivers and other licensees. The Council itself is committed to the highest possible standards of honesty, openness and accountability and will not tolerate malpractice or wrongdoing.

Employees and others who work with the Council can often be the first to realise that there may be something wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. Indeed, it may also be the case that someone with a concern is not aware how best to raise concerns.

The Council therefore has a 'Whistle-blowers' Policy which is a vital element of the Council's governance arrangements and is designed to allow those employed by the Council to come forward and raise concerns of wrongdoing involving the actions of the Council's employees, its Councillors, contractors or any aspect of the Council's activities.

The Council is committed to a policy which seeks to protect those individuals who make certain disclosures with regard to any instance of malpractice or wrongdoing and to investigate them in the public interest. It is important to stress that any concern raised through this Policy will be treated confidentially and with the utmost seriousness.

The Whistle-blower's policy can be found here:

<https://barnsleymbc.moderngov.co.uk/documents/s60691/Confidential%20Reporting%20Policy.pdf>

Department for Transport's Statutory Taxi and Private Hire Vehicle Standards

The DfT's Statutory Standards were published in July 2020 by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).

The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.

The standards have been set by DfT to address directly the safeguarding of the public and any potential impact of failings in that regard. The Council agrees that the importance of thoroughly considering the standards cannot be overstated.

The primary focus of the Statutory Standards is on protecting children and vulnerable adults, but all those travelling in a taxi or a private hire vehicle will benefit from the DfT's recommendations which are designed, in the main, to better regulate taxis and private hire vehicles

Therefore, in this policy, particular regard has been had to the recommendations set out in the DfT Guidance published in July 2020:

The recommendations made in the Statutory Standards Guidance are the result of detailed discussions by DfT with representatives of the trade, regulators and safety campaign groups. DfT therefore expects the recommendations to be implemented by all local authorities, unless there is a compelling local reason not to do so.

In the interests of transparency, the Council will publish its consideration of the measures contained in the Statutory Taxi and Private Hire Vehicle Standards, and any changes in policy that arise.

For its part, DfT will be monitoring local authorities to ensure the effectiveness of the standards in achieving the protection of all passengers but particularly children and vulnerable adults.

The Statutory Standards do not purport to give a definitive statement of the law however, so decision making in individual cases remains a matter for the Council.

Disclosure and Barring Service (DBS): Criminal Record Checks

The Council is entitled to request an enhanced criminal record certificate check of the barred lists from the DBS for all applicants for a driver's licence or the holders of a driver's licence.

The Council considers that all individuals applying for or renewing a taxi or private hire driver's licence should be subject to a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check.

Once licensed, drivers will be required through their conditions of licence to evidence continuous registration with the **DBS update service** so that the Council can routinely check for new information every six months.

If, as a result of registering for the DBS update service, a conviction or other matter comes to light which might affect the suitability of a driver, it may not necessarily lead to the automatic suspension or revocation of the driver's licence. Each case will still be determined on its own individual merits but additional matters the Council may take on board would include:

- (a) Whether the conviction(s)/matter in question was disclosed on the driver's application form;
- (b) Any failure by the driver to report the conviction(s) to the Council in accordance with the conditions of licence

Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the Barred List. This means that an individual subject to barring would not be automatically prevented from being licensed to drive a taxi or private hire vehicle. However, the Council will take an individual's barred status into account alongside other information available when deciding the suitability of someone to drive members of the public for hire.

In the interests of public safety, unless there are exceptional reasons for doing so, the Council will not issue a licence to any individual that appears on either Barred List.

If the Council considers there to be exceptional circumstances in a particular case in which they consider an individual who is named on a Barred List to be 'fit and proper', their reasons for reaching this conclusion will be specifically recorded for transparency.

DBS Referrals by the Council:

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for the Council to make a referrals to the DBS. The power for the Council to make a referral in this context arises from undertaking its safeguarding role.

DfT recommends that the Council should make a referral to the DBS when it is thought that:

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

if any of the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a Barred List.

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

Gathering and Sharing information

The Council will consider the full range of information available when making a decision as to whether an applicant is a suitable person to be granted a licence, or whether a licence should be suspended or revoked. Among other things, the Council will also consider, if it is deemed relevant, any information:

- shared by other local authorities;
- received from the Council's Safeguarding team;
- received from any local multi-agency Safeguarding Hub (MASH);
- by way of common law disclosure from the Police;
- provided by the applicant, or licensee;
- contained on the **NR3** database of refusals and revocations (see below)*

*The Local Government Association (LGA) commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). Tools such as NR3 can be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.

Sharing licensing information with other licensing authorities

Applicants and licensees are required to disclose to the Council if they hold, or have previously held, a licence with another authority. Similarly, they are required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. The Council's application forms make it clear that making a false statement or omitting to provide the information requested may be a criminal offence.

The Council will communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision making.

Multi-Agency Safeguarding Hub (MASH)

Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. The **MASH** principles are:

- information sharing;
- joint decision making;
- coordinated intervention.

As part of the South Yorkshire Group of Licensing Authorities, the Council will assist in establishing and facilitating the objectives of a **MASH**, i.e. the sharing of necessary and relevant information between stakeholders. One of the most effective ways to minimise any risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that licensing decisions are made with the fullest knowledge and information.

Working with the Police

The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person so it is important for the Council to have a genuine partnership with the local police to ensure that any relevant information is shared as quickly as possible.

This relationship can be mutually beneficial, assisting the police to prevent crime. The police can also gain valuable intelligence where necessary from drivers and operators.

Common Law Police Disclosure

In addition to DBS checks on applicants and licensees, common law police disclosure ensures that where there is a public protection risk, the police are in a position to pass information to the Council which would allow them to act quickly to prevent or mitigate any perceived danger.

This information is normally passed on at the time of arrest or charge, rather than on conviction, which may be some time after, allowing any preventative measures to be put in place immediately.

The Council will therefore maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place.

Licensee self-reporting

All licence holders are subject to conditions requiring them to give written notification to the Council **within 5 working days** of any conviction or caution for any offence, including motoring offences and endorsements.

It is a further requirement that licence holders must notify the Council **within 48 hours** of any arrest and release, charge or conviction for any sexual offence, or any offence involving dishonesty or violence. An arrest for any of the offences within this scope

may lead to a review of the licence to decide whether the licence holder is fit to continue holding a licence.

In such cases the Council will have a discretion as to whether the licence should be withdrawn. It is for the Council to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.

Failure by a licence holder to disclose an arrest or charge as specified above could be seen as behaviour that questions the honesty and integrity of the licence holder, and consequently the suitability of the person to hold a licence, regardless of the outcome of the initial allegation.

Promoting Equality

Section 149 of the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between persons with the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In seeking to support a community in which diversity is encouraged, the Council will expect all licensees to take steps to ensure that no person is treated differently on the grounds of race, colour, religion, ethnic or national origins, age (unless an age-related event), sex (unless a single sex event), sexual orientation (unless a gay or lesbian event), or disability, and that the management and practices of operators comply with all race relations, equal opportunities and anti-discrimination legislation.

Educating the Public

Educating the travelling public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services to stay safe will help to protect all passengers. **Appendix P** to this Policy contains further information on what the public need to do to stay safe when travelling in a taxi or private hire vehicle.

CCTV in licensed vehicles

DfT recognises that, in certain circumstances, CCTV in licensed vehicles can give confidence and reassurance to both drivers and passengers.

The question of requiring CCTV to be installed in Barnsley MBC licensed vehicles is something the Council will keep under review. Consideration will only be given if it is deemed necessary. Currently, there is no evidence of a particular problem in Barnsley and, equally, no approach from either the taxi or private hire trade to support such a request.

In the meantime, the Council will encourage any driver or vehicle proprietor who wishes to install CCTV in their vehicle.

Consultation

The Council will normally consult on proposed changes in licensing policy that may have significant impacts on passengers and/or the trade.

The Council also recognises that any decision taken to alter the existing licensing regime could have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas. The Council therefore regularly engages with other authorities in South Yorkshire through regional officer consultation groups and, more formally, councillor liaison meetings.

Before determining this policy statement, the Council has consulted with the following:

- The Police
- The Local Safeguarding Board
- Taxi and private hire licence holders (or their representatives)
- Representatives of local businesses and residents organisations
- Public transport providers
- Local Chamber of Commerce / BID
- Local Authority Testing Stations
- Taxi Conversion Companies
- Home to School Transport
- Local Pubwatch Groups
- The public
- Public Health
- Minority Groups

Conditions of Licence

The Council will only impose conditions on licenses and certificates which are proportionate and necessary for ensuring the safety and protection of the travelling public. In doing so the Council will aim to strike the right balance and not impose undue or unnecessary burdens on the trade

Similarly, in developing its Policy the Council has sought to avoid unnecessary duplication of existing legislation and regulatory regimes. However, nothing in this policy is intended to revoke or replace the need for applicants to act in accordance with legal requirements. All applicants are advised to seek proper advice to ensure that the activities they propose are within the boundaries set by existing legislation and regulations.

The Council's current set of licensing conditions are attached as appendices to this policy document.

The appendices also include the Council's approved byelaws for hackney carriage vehicles and drivers.



BARNSLEY

Metropolitan Borough Council

DRIVERS LICENCES

CONDITIONS OF APPLICATION

(Requirements for Applicants)

All applicants for a private hire / hackney carriage driver licence must satisfy the Council that they are 'fit and proper' people to be granted a driver licence. They must then remain a 'fit and proper' person for the duration of that licence. The fitness and propriety of a driver will be monitored / assessed throughout the period that the licence is held.

Any reference in these conditions to the "Act of 1976" means the Local Government (Miscellaneous Provisions) Act, 1976, and "the Council" means the Barnsley Metropolitan Borough Council.

The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length of three years for taxi and private hire driver licences.

Shorter duration licences will only be issued if the Council thinks it is appropriate in the specific circumstances of the case, for instance, if a licensee has specifically requested one, or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand

1. In the case of Private Hire Drivers the Council may, in the circumstances of any particular case, impose such additional conditions as they may think fit.
2. The applicant must satisfy the Council that he is a fit and proper person to hold a licence. All new applicants will be required to complete and pass a specified theory test and driving assessment prior to the licence being granted.
3. Before a driver's licence is granted the applicant must:-
 - (a) Complete and submit to the Council an application on the form prescribed by the Council;
 - (b) Submit such further information as the Council may require under Section 57 of the Act of 1976;
 - (c) Satisfy the Council that he is medically fit to drive a Private Hire Vehicle. For this purpose the applicant shall produce a certificate in the form prescribed

by the Council signed by a medical practitioner on first application; at the age of 45 and then every five years until the age of 60 when a certificate will be required annually. Whether or not such a certificate has been produced, the applicant shall, if required by the Council, undergo a medical examination by a registered medical practitioner to be selected by the Council. Holders of HGV or PSV drivers' licences are not required to submit a medical certificate but will be required to produce such licence for inspection.

(d) Complete a satisfactory enhanced Disclosure & Barring Scheme (DBS) check prior to the first licence being granted and further checks at intervals not exceeding 3 years.

(e) Satisfy the Council that he is 21 years or over, OR 19 years in special circumstances.

(f) Satisfy the Council he has held for at least twelve months prior to, and is at the date of application, the holder of a driver's licence (not being a provisional licence) granted to the applicant under Part III of the Road Traffic Act 1972 or the corresponding provisions of any later enactment authorising the applicant to drive a motor car. Such driving licence must be produced with the application;

(g) The driver of a Private Hire Vehicle may not ply for hire.

(h) For Foreign Nationals or for UK citizens who have worked or lived at some point overseas the following will apply:

- If you have lived outside the UK for a period of 5 years or more, you must provide confirmation of such previous residential addresses, together with a list of previous UK residential addresses within the last five years.
- In all other cases the applicant should request a Certificate of Good Repute/Letter of Good Conduct from the Embassy of those country/countries. If this is not in English a translation will be required (the translator must be approved by the Licensing Section prior to the translation taking place). Any cost incurred in obtaining relevant certification under this section will be at the applicant's expense. Applicants who are, for whatever reason, unable to provide the required Certificate of Good Repute/Letter of Good Conduct will have their application referred to The General Licensing Sub-Committee for determination.
- Your identity will be checked against the UK Border Agency records.



BARNSLEY

Metropolitan Borough Council

VEHICLE LICENCES

CONDITIONS OF APPLICATION

(Requirements for Applicants)

The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length of one year for taxi and private hire vehicle licences.

Shorter duration licences will only be issued if the Council thinks it is appropriate in the specific circumstances of the case, for instance, if a licensee has specifically requested one, or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand.

Hackney Carriage and Private Hire vehicle licences may be applied for by a company or partnership; the Council will apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence will be required to advise the Council of any change in directors or partners.

Criminal record checks for vehicle proprietors

As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity.

Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Enhanced DBS and barred list checks are not available for vehicle licensing, but the Council requires that anyone holding a vehicle licence should be subject to a basic DBS check at least once annually.

Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). The Council will consider whether an applicant or licence holder with a conviction for offences provided (other than those relating to driving), meets the 'fit and proper' threshold.

The Council acknowledges that in many cases individuals that hold a vehicle license may already be licensed as a driver. In those circumstances the Council will not normally require those seeking to licence a vehicle to provide a basic DBS check as

part of the application process as it would not provide any additional information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment.

MOT Testing

Licensed vehicles may now be tested at any one of the VOSA registered garages on the Councils approved list.

All private hire and hackney carriage vehicles regardless of age, will be MOT tested twice per year. Vehicles which successfully pass both tests first time will have their test requirement reduced to one test per calendar year and remain at this level unless the vehicle fails its next MOT test, at which point it will return to being tested twice per year.

If a proprietor replaces his licensed vehicle with a new vehicle that is younger than the currently licensed vehicle or is an electric or hybrid vehicle then the MOT status is maintained at one test per calendar year. However, if the replacement vehicle is older than the existing licenced vehicle the MOT requirement will revert to twice a year.

For the purposes of licensing a vehicle or renewing a vehicle licence an MOT certificate will only be accepted 4 weeks from the date of the MOT certificate.

Introduction to testing arrangements

Barnsley Council provides services for people who live and work in the districts and those visiting the area.

The Council has recently changed its policy in respect of licenced vehicle inspections to see this function being delivered by a number of DVSA approved vehicle testing stations.

Volume of Tests

Currently, there are approximately 531 vehicles licensed by the Council. Vehicles are tested in accordance with a risk - based assessment criteria.

Council does not guarantee any level of business or demand to individual centres.

Payment

The compliance centres charge the cost of the test directly to the vehicle driver/operator. There is no income generated on behalf of the Council. The Council is seeking a cost effective but high quality service for drivers and operators.

Location and Number of Centres

The Council will only approve centres within the Barnsley Council boundary. The Council has identified twenty seven compliance test centres that may be authorised to test Class 4 vehicles.

The Council reserves the right to vary the number of approved premises to meet the requirement of the efficient provision of compliance testing across the borough.

The geography of the borough and its surrounding urban areas means there is an uneven distribution of drivers and operators. Therefore the Councils' aim is to ensure that an even distribution of centres is applied.

Standard of Service

In order to ensure consistent and unbiased assessment of professional standards the Council will use the outcomes of the DVSA assessments for all vehicle testing stations. This is a national system overseen by DVSA using fully trained and qualified staff.

In order to provide the highest standard of service to drivers and operators the Council has selected testing stations given a 'green' status by DVSA.

The Council will also consider the comments made by DVSA inspectors as part of the routine assessments. Where significant differences are found between the proposal and the inspection, the Council will not enter into a contract and centres may be excluded from submitting future proposals.

Insurance

It is required that all insurance documents must be shown before a licence is issued. This requires:

- A valid certificate of insurance or cover note confirming that insurance is in place for each driver of the vehicle and specifying use as either a Hackney Carriage or Private Hire Vehicle;
- A Hackney Carriage vehicle requires insurance to cover public hire and hire and reward;
- A Private Hire vehicle requires insurance to cover hire and reward only;
- A cover note will be accepted and the licence will be issued on the understanding that a certificate of insurance will be produced at the earliest opportunity.
- When 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 will render the licence void (SUSPENDED).
- In the event of the applicant for a vehicle licence defaulting in payment of fees, the licence automatically becomes void (SUSPENDED).

As part of its enforcement duties the Council will undertake periodic auditing of licensed vehicles to verify that the vehicle is appropriately insured.



BARNSLEY

Metropolitan Borough Council

OPERATORS LICENCES

CONDITIONS OF APPLICATION

(Requirements for Applicants)

Any reference in these conditions to the "Act of 1976" means the Local Government (Miscellaneous Provisions) Act, 1976, and "the Council" means the Barnsley Metropolitan Borough Council.

The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length of five years for private hire operator licences.

Shorter duration licences will only be issued if the Council thinks it is appropriate in the specific circumstances of the case, for instance, if a licensee has specifically requested one, or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand.

As with driver licensing, the objective in licensing private hire operators is to protect the safety of the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that the Council can satisfy itself that those who are granted a private hire operator licence also pose no threat to the public, have no links to serious criminal activity, and are therefore fit and proper persons to operate private hire vehicles.

Although private hire operators may not necessarily have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

1. The Council, before granting an operator's licence, must be satisfied that the applicant is a fit and proper person to hold such a licence.
2. The applicant must pay the appropriate fee to the Council for the licence.
3. Any changes which might render invalid any of the information on this form, including any part thereof, must be immediately reported to licensing@barnsley.gov.uk

No person is allowed, in a controlled district, to operate any vehicle as a private hire vehicle unless he holds a current operator's licence under Section 55 of the Act of 1976. This is a separate form of licence from those granted to a proprietor or driver.

A proprietor who is also in business on his own account as an operator would need both kinds of licence.

Enhanced DBS and barred list checks are not available for private hire operators but the Council will still request a basic disclosure from the DBS on an annual basis. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC).

The Council will consider whether an applicant or licence holder with a conviction for any offences disclosed (other than those relating to driving), meets the 'fit and proper' threshold. The Council acknowledges that in some cases individuals that are licensed as a private hire operator may already be licensed as a driver.

Because the Council undertakes biannual DBS checks recommended for its drivers it will not require private hire operators, or those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process since a basic DBS would not provide any information in addition to that disclosed already.

If the private hire operator licence is in the name of a company or partnership, the Council will apply the 'fit and proper' test to each of the directors or partners in that company or partnership.

Booking and dispatch staff used by private hire operators

Private hire drivers are not the only direct contact that users of the service have with private hire operators' staff, for example, contact in the main will usually be with a person or 'dispatcher' taking bookings (be it by phone or in person).

A dispatcher decides which driver to send to a user, a position that is open to exploitation by those seeking to exploit children and vulnerable adults. In line with recent government guidance it is therefore considered appropriate that any of the operator's staff who have contact with the public and are involved in the booking and dispatching of vehicles, should not present an undue risk to the public or to the safeguarding of children and vulnerable adults.

In order to satisfy itself that private hire operators are able to demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public, the Council will attach a condition to private hire operator licences, requiring the operator to, firstly, keep a register of all staff responsible for taking bookings or dispatching vehicles.

Secondly, the conditions will require operators to evidence that they have had sight of annual Basic DBS checks for all individuals listed on their register of booking and dispatch staff. Before individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.

The failure by an Operator to ensure the appropriate checks are carried out may call into question the Operators fitness and propriety.

The register should maintain records of all those in either a booking or dispatch role to be kept for the same duration as booking records themselves are required to be kept. This will enable cross-referencing between the two records.

A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register.

Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults and therefore there is a requirement to have sight of basic DBS checks for all those booking and/or dispatching vehicles.



BARNSLEY

Metropolitan Borough Council

PRIVATE HIRE VEHICLE LICENCE CONDITIONS

These are the Standard Conditions attached to a private hire vehicle licence. Breach of these conditions may constitute an offence. Vehicle proprietors should read these conditions carefully and ensure they understand and abide by them.

These conditions are to be read in conjunction with the appropriate sections of the Local Government (Miscellaneous Provisions) Act, 1976, Part II

Definitions

In these Conditions:-

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

“the Council” means the Barnsley Metropolitan Borough Council.

“private hire vehicle” has the same meaning as in the Local Government (Miscellaneous Provisions) Act 1976

“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.

General

The licensed vehicle can only be driven by a person who is a Barnsley MBC licensed driver.

The vehicle can only be used for hire for pre-booked journeys made in advance through a Barnsley MBC licensed Private Hire Operator

The vehicle cannot be used as a hackney carriage, i.e. by plying, standing, waiting for touting for hire (Such activity may constitute illegal plying for hire, whether or not an actual hiring took place)

Notifications

The proprietor shall notify the Council in writing of any change of his/her address during the period of the Licence within 7 days of such change-taking place.

The proprietor must notify the Licensing Section **in writing within 5 working days** details of any conviction, binding over, caution, fixed penalty notice, warning or reprimand imposed on him/her during the period of the licence.

Specifically, the proprietor must notify the Council **within 48 hours** of any arrest and release, charge or conviction for any sexual offence, any offence involving dishonesty or violence. An arrest or charge for any of the offences listed above may result in a review by the Council as to whether the licence holder is fit to continue to do so.

Failure to notify the Council could be seen as behaviour that questions the honesty of the proprietor and therefore the suitability of the licence holder, regardless of the outcome of the initial allegation might remain open to question.

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.

This part only become relevant if we impose the basic disclosure checks for vehicle owners

Insurance

The vehicle must 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.

On request by an authorised officer or constable the proprietor must produce a relevant and fully compliant certificate of insurance.

MOT Testing and alterations, modifications to the vehicle

The licensed vehicle must, when in use as a private hire vehicle, have a current MOT / Statement of Compliance issued by one of the Council's Appointed Garages or any other Testing Station the Council may specify.

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

The vehicle must be fitted with glass which is in accordance with current Road Vehicle (Construction and Use) Regulations prescribed in respect of the normal zone of vision. No vehicle shall be fitted with any form of additional film to darken or tint the glass on any part of the vehicle. Tinted glass will only be permitted in accordance with the manufacturers or specialist coach builder's specification.

Fixing and display of licence plates

The Proprietor shall cause the number of the Licence to be fixed and displayed on the vehicle at all times during which the vehicle is used as a private hire vehicle in the manner prescribed in a) and b) below. Such number to be displayed by means of the licence plate/s and the interior licence plate issued by the Council to the Proprietor.

- (a) 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;
- (b) 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.

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.

The Proprietor shall not allow more passengers to be carried in the vehicle than the maximum number specified on the licence, subject to the availability of a suitable seatbelt for each person carried.

Other signage and advertising of the operating name

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.

The **"Private Hire Vehicle Advanced Booking Only"**, signage must be **l**
contrasting colour to the vehicle, be at least 19" x 6" in area and be in a
prominent position in the centre of the door panel.

(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.

The company name on the door panels must be exactly the same as the name on the operator licence.

Any person wishing to advertise on a licensed private hire vehicle must seek written permission from the Senior Licensing Officer.

Only advertising that relates to the private hire company would be considered.

Requirement to carry a fire extinguisher and first aid kit

All licensed vehicles must carry a fire extinguisher which must be a minimum of 1kg dry powder type and comply with British Standard EN3. This must be located and securely fixed in an accessible location.

All licensed vehicles must carry a first aid kit. The contents should contain sufficient items, which would meet any minor emergency.

Regular maintenance checks

Before the vehicle commences work each day the proprietor must 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 vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition

The interior shall be free of all stains, splits, tears and the seats shall function in accordance with the original manufacturer's specification. All lights, doors, door locks, boot / tail gate and locks, bonnet, hinges and catches, windows, sunroofs and hoods should be operating correctly

The exterior of the vehicle shall be free of dents, rust or unrepaired accidental damage and shall at all times have uniform paintwork equivalent to that supplied by the manufacturer.

The boot must be kept clear for use by the passengers except for storage of a spare wheel and jack and any other essential tools and / or spare parts. There must be adequate means for securing a reasonable amount of luggage.

Proprietor's responsibility for the driver

Before the proprietor allows any other person to drive the private hire vehicle, the proprietor must:

- a) ensure that the driver holds a current Barnsley MBC dual driver's licence, and
- b) must retain a copy of that driver's licence until such time as the driver ceases to be employed to drive the vehicle.

Use of CB radio and radio scanning devices

The use of a Citizen Band (CB) transmitter/receiver and the use of radio scanning devices is prohibited and must not be fitted or carried in a licensed private hire vehicle at any time.

Reporting accident damage to the vehicle

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 Senior 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.

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.

Transfer of the proprietor's interest in the vehicle

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.

With reference to Section 49 (1) of the Local Government (Miscellaneous Provisions) Act 1976, the person to whom the vehicle is transferred must supply the Council's licensing office with the information required by the transfer of a private hire vehicle licence application form, within the **period of 14 days** specified in the said section.

Taximeters in private hire vehicles

If the licensed vehicle is fitted with a taximeter the proprietor shall notify the Council immediately if, for any reason, this meter's seal is broken. Vehicles fitted with a taximeter shall not operate unless the meter is in working condition and has been checked and sealed by an independent qualified engineer supplying or fixing the meter and a written certificate to this effect had been delivered to the Council.

"No Smoking" signage must be displayed in the vehicle in accordance with the legislation. Failure to comply with the above may lead to a fixed penalty notice being issued or a criminal prosecution.

Parking the vehicle when not carrying passengers

The licensed vehicle shall not be parked or positioned in such a manner as to cause obstruction on a public highway.

The licensed vehicle shall not be parked at such 'public' locations or positions whereby the vehicle's appearance makes it look like the vehicle is available for immediate hire or wait / park in a location which may encourage an approach from a member of the public to enquire as to the vehicle's availability for hire.

Vehicles constructed or adapted for wheelchair use

No person, other than a Barnsley MBC licensed driver who has satisfied the Council of their competency to safely load, unload and secure a wheelchair and its passenger,

may drive the proprietor's private hire vehicle. **Notwithstanding** that they are a licensed private hire vehicle driver."

NB *This 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.*

Trailers

No licensed vehicle may tow any trailer unless evidence of valid insurance to cover such use for hire and reward has been produced to a Licensing Officer.

The vehicle licence plate must be clearly displayed on the rear of any trailer used, this licence plate is in addition to that on the rear of the vehicle.

The contents of the trailer must be secured and covered in a proper manner. Any trailer used must comply with regulations in all respects and where required, the licensed driver must hold the appropriate licence category as issued by the DVLA.

Contravention of these conditions may constitute an offence under the Local Government (Miscellaneous Provisions) Act 1976.

In addition, it is an offence under that Act to obstruct an authorised officer or Police Officer in his/her duty.

APPENDIX E



BARNLSLEY
Metropolitan Borough Council

HACKNEY CARRIAGE VEHICLE LICENCE CONDITIONS

These are the Standard Conditions attached to a hackney carriage vehicle licence. Breach of these conditions may constitute an offence. Vehicle proprietors should read these conditions carefully and ensure they understand and abide by them.

These conditions are to be read in conjunction with the appropriate sections of the Town (police Clauses) Act 1847, the Local Government (Miscellaneous Provisions) Act, 1976, Part II, and the Council's own Hackney Carriage bye laws

Definitions

In these Conditions:

“authorised officer” means any officer of the Council authorised in writing by the Service Director, Legal 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.

General

The licensed vehicle can only be driven by a person who holds a Barnsley MBC Dual driver's licence.

Notifications

The proprietor shall notify the Council in writing of any change of his/her address during the period of the Licence within 7 days of such change-taking place.

The proprietor must notify the Licensing Section **in writing within 7 working days** details of any conviction, binding over, caution, fixed penalty notice, warning or reprimand imposed on him/her during the period of the licence.

Specifically, the proprietor must notify the Council **within 48 hours** of any arrest and release, charge or conviction for any sexual offence, any offence involving dishonesty or violence. An arrest or charge for any of the offences listed above may result in a review by the Council as to whether the licence holder is fit to continue to do so.

Failure to notify the Council could be seen as behaviour that questions the honesty of the proprietor and therefore the suitability of the licence holder, regardless of the outcome of the initial allegation might remain open to question.

This part only become relevant if we impose the basic disclosure checks for vehicle owners

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.

Insurance

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.

On request by an authorised officer or constable the proprietor shall produce a relevant and fully compliant certificate of insurance.

MOT Testing, alterations and modifications to the vehicle

Licensed vehicles must, at all times, have a current MOT / Statement of Compliance issued by one of the Council's Appointed Garages or any other Testing Station the Council may prescribe.

No material alteration or change in the specification, design, condition, or appearance of the vehicle is made during the period of the Licence without the prior approval of the Council;

The vehicle must be fitted with glass which is in accordance with current Road Vehicle (Construction and Use) Regulations prescribed in respect of the normal zone of vision. No vehicle shall be fitted with any form of additional film to darken or tint the glass on any part of the vehicle. Tinted glass will only be permitted in accordance with the manufacturers or specialist coach builder's specification.

Fixing and display of licence plates

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 in the prescribed manner, set out in a) and b) below

- (a) 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.
- (b) 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.

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.

Types of vehicle, signage and advertising

Any vehicle other than a purpose built hackney carriage shall be white with black bonnet and boot, subject to the discretion of the Senior Licensing Officer. Purpose built vehicles must be black. A roof sign of the design approved by the Council must be displayed.

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.

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.

Requirement for fire extinguisher and first aid kit to be carried

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.

All licensed vehicles must carry a first aid kit. The contents should contain sufficient items, which would meet any minor emergency.

Taximeters

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.

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.

Reporting accident damage to the vehicle

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.

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

Transfer of interest in the vehicle

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.

With reference to Section 49 (1) of the Local Government (Miscellaneous Provisions) Act 1976, the person to whom the vehicle is transferred must supply the Council's licensing office with the information required by the transfer of a private hire vehicle licence application form, within the **period of 14 days** specified in the said section.

Regular maintenance checks

Before the vehicle commences work each day the proprietor must 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 vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition.

The interior shall be free of all stains, splits, tears and the seats shall function in accordance with the original manufacturer's specification. All lights, doors, door locks, boot / tail gate and locks, bonnet, hinges and catches, windows, sunroofs and hoods should be operating correctly.

The boot must be kept clear for use by the passengers except for storage of a spare wheel and jack and any other essential tools and / or spare parts. There must be adequate means for securing a reasonable amount of luggage.

The exterior of the vehicle shall be free of dents, rust or unrepaired accidental damage and shall at all times have uniform paintwork equivalent to that supplied by the manufacturer.

Proprietor's responsibility for the driver

Before the proprietor allows any other person to drive the private hire vehicle, the proprietor must:

- (a) ensure that the driver holds a current Barnsley MBC dual driver's licence, and
- (b) must retain a copy of that driver's licence until such time as the driver ceases to be employed to drive the vehicle.

CB Radios

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.

No Driver or Proprietor shall contravene parking restrictions whilst using or being in charge of the vehicle.

'No Smoking' signage must be displayed in the vehicle in accordance with the legislation. Failure to comply with the above may lead to a fixed penalty notice being issued or a criminal prosecution.

Re-inspections

If a licensed vehicle fails an MOT test the vehicle licence will be immediately suspended until the vehicle has been rectified to the satisfaction of the testing station and the MOT standards.

Parking the vehicle when not carrying passengers

Other than when on a designated hackney carriage stand, the licensed vehicle shall not be parked or positioned in such a manner as to cause obstruction on a public highway.

Vehicles constructed or adapted for wheelchair use

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

NB *This 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.*

Trailers

No licensed vehicle may tow any trailer unless evidence of valid insurance to cover such use for hire and reward has been produced to a Licensing Officer.

The vehicle licence plate must be clearly displayed on the rear of any trailer used, this licence plate is in addition to that on the rear of the vehicle.

The contents of the trailer must be secured and covered in a proper manner. Any trailer used must comply with regulations in all respects and where required, the licensed driver must hold the appropriate licence category as issued by the DVLA.

Contravention of these conditions may constitute an offence under the Local Government (Miscellaneous Provisions) Act 1976.

In addition, it is an offence under that Act to obstruct an authorised officer or Police Officer in his/her duty.

APPENDIX F



BARNSLEY

Metropolitan Borough Council

DUAL DRIVER LICENCE CONDITIONS

These are the **Standard Conditions** attached to a dual driver's licence. **Breach of these conditions may constitute an offence.** Drivers should read these conditions carefully and ensure they understand and abide by them.

These conditions are to be read in conjunction with the appropriate sections of the **Local Government (Miscellaneous Provisions) Act, 1976, Part II**

NB Although a 'dual' licence authorises a driver to drive both a private hire vehicle and a hackney carriage, these conditions only apply to the driver's use of a private hire vehicle.

The Council has a separate set of bye laws which govern the use of a hackney carriage by drivers which are contained in **Appendix H** of the Council's Taxi and Private Hire Policy.

Definitions

"authorised officer" means any officer of the Council authorised in writing by the Service Director Legal Services of the Council for the purposes of these Conditions.

"the Council" means the Barnsley Metropolitan Borough Council.

"driver" means a driver licensed by the Council to drive a hackney carriage or private hire vehicle

"private hire vehicle" has the same meaning as in the Local Government (Miscellaneous Provisions) Act 1976

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

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

General

The driver's licence is issued in respect of the person whose details are printed on the licence and is **non-transferable**. If at any time during the period of the Licence the holder does not wish to retain any of the Licenses, they may surrender the Licenses

to the Licensing Office at the Council. Until surrender, the driver remains bound by these Conditions.

The driver must not carry more passengers than the number prescribed in the licence for the vehicle, regardless of the age or size of the passenger.

Accepting bookings for a private hire vehicle

The driver cannot accept a private hire vehicle hiring unless it is **pre-booked in advance** through a Barnsley MBC licensed private hire operator

The fare agreed by the operator and the hirer for a particular journey must not be altered by the driver unless there has been a change made to the original booking. If such change occurs this can only be with the consent of the passenger(s) and the driver must inform the operator.

Calculating the fare and giving receipts

If no fare has been agreed with the operator in advance and the licensed vehicle is fitted with a taximeter, a fare in excess of that displayed must **not** be charged.

The driver must not without reasonable cause, unnecessarily prolong in distance or time, the journey for which the vehicle was hired.

Upon request by the hirer, the driver shall provide a receipt for the hiring, showing the date and fare paid, and shall be signed by the driver. Any such receipt shall also be in a form as to identify the driver or operator with whom the hiring was made

Notifications

The driver shall notify the Council in writing of any change of his/her address during the period of the Licence within 7 days of such change-taking place.

The driver must notify the Licensing Section **in writing within 7 working days** details of any conviction, binding over, caution, fixed penalty notice, warning or reprimand imposed on him/her during the period of the licence.

Specifically, the driver must notify the Council **within 48 hours** of any arrest and release, charge or conviction for any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest or charge for any of the offences listed above may result in a review by the Council as to whether the licence holder is fit to continue to do so.

Failure to notify the Council could be seen as behaviour that questions the honesty of the driver and therefore the suitability of the licence holder, regardless of the outcome of the initial allegation might remain open to question.

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.

Touting or soliciting

The driver 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 driver or the 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

The driver's badge

The driver shall at all times when acting in accordance with this licence, wear in such a position as to be plainly and distinctly visible the badge issued to him/her by the Council pursuant to Section 54(1) of the Local Government (Miscellaneous Provisions) Act 1976. Hanging from the internal mirror is not acceptable.

The driver's 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.

The driver must report the loss of their driver badge and or licence to the Council as soon as such loss becomes known. The driver badge remains the property of the Council and should be returned on expiry of the licence or surrendered on demand of an authorised officer of the Council or Police Constable.

Driver's conduct

The driver must at all times be smart, clean and respectable in his / her dress and person, and behave in a polite and courteous manner to passengers and other members of the public and road-users alike.

The driver must take all reasonable steps to ensure the safety and comfort of all passengers being transported in, entering, and leaving the vehicle and offer all reasonable assistance with any luggage or other baggage that the passenger may have.

The driver must not eat or drink in his / her Vehicle whilst carrying fare paying passengers.

The driver is not allowed to carry his/her own dog in a private hire vehicle whilst it is in use

The driver must not without the consent of the hirer play any radio, cassette or CD player or allow any of the equipment to cause annoyance to any person, whether inside or outside the private hire vehicle;

The driver must not sound the horn of their vehicle to notify the passenger of his / her arrival. The sounding of the horn is only to be used within the guidelines as set out in the appropriate legislation and the Highway Code.

The driver must at all times operate in a professional manner and comply with the Council's Code of Good Conduct (see **Appendix N** of this Policy).

Insurance

The driver must make sure that any private hire vehicle or hackney carriage they drive has a valid insurance certificate which covers themselves to drive before they do so (a copy of which must be deposited with the operator) and a valid certificate of compliance (or MOT) for the vehicle.

Regular maintenance checks

There is a requirement on vehicle proprietors to make regularly safety checks of their vehicles. In many cases, the proprietor will also be the driver. However, where the driver of a vehicle is not the proprietor then the driver is required by these conditions to undertake safety and other basic checks each day before the vehicle is used for private hire purposes.

Before the vehicle commences work each day, the driver must take steps to ensure that the vehicle is maintained in a clean, comfortable, safe, watertight and mechanically sound condition and is in all other respects suitable for the purpose for which it is intended.

The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition

The interior shall be free of all stains, splits, tears and the seats shall function in accordance with the original manufacturer's specification. All lights, doors, door locks, boot / tail gate and locks, bonnet, hinges and catches, windows, sunroofs and hoods should be operating correctly

The boot must be kept clear for use by the passengers except for storage of a spare wheel and jack and any other essential tools and / or spare parts. There must be adequate means for securing a reasonable amount of luggage;

The exterior of the vehicle shall be free of dents, rust or unrepaired accidental damage and shall at all times have uniform paintwork equivalent to that supplied by the manufacturer.

The driver must 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.

Reporting accident damage

The driver must immediately report to the vehicle proprietor the occurrence of any accident / incident involving their licensed vehicle, whether or not any damage materially affecting the safety, performance or appearance of the vehicle has occurred.

The driver must also immediately report to their private hire operator any accident / incident to the private hire vehicle which caused damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons using the vehicle.

If the driver is also the vehicle proprietor, the vehicle conditions contain specific requirements to notify the Council in such circumstances.

The driver must immediately report any changes in his/her medical condition to the licensing office. The Council may require evidence in the form of a medical certificate or confirmation letter. A licensed driver must not drive a licensed vehicle if they are suffering from any disease or disability which would cause the licensed vehicle being driven by them to be a danger to the public.

Maintaining medical fitness to drive

The driver must at all times meet the eyesight requirements specified by the Department of Transport driving test.

The driver must immediately notify the council and their operator of any illness, injury or other impairment affecting their ability to drive. A driver may be required to undergo a further medical examination in accordance with the DVLA guidelines.

If the driver cannot satisfy the Council that they meet the required medical standard, the driver's licence could be subject to suspension, revocation or not renewed.

Carrying passengers with a disability

The driver must carry a guide dog or other assistance dog belonging to a passenger free of charge unless the driver has a certified medical condition that would preclude such action **and** has been given a Medical Exemption Certificate from the Council.

Such a certificate must be carried by the driver at all times when driving a private hire vehicle.

A driver 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.

If, for some reason, a passenger in a wheelchair cannot be secured properly using the appropriate equipment installed in the vehicle, the driver must arrange with the operator for a suitable alternative vehicle to be provided for the safe passage of the hirer.

Vehicles constructed or adapted for wheelchair use

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

NB *This 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.*

Use of CB radio, radio scanning devices and other mobile communications

The use of a Citizen Band (CB) transmitter/receiver and the use of radio scanning devices in any private hire vehicle is prohibited. Such equipment must not be fitted or carried in a licensed private hire vehicle at any time.

The driver must not use any hand held communications or navigation devices or similar (such as mobile telephone, two way radio, satellite navigation device or personal digital assistant) whilst driving. All Communications Devices must be securely fitted within the vehicle and appropriately located as to not interfere with operation of the vehicle.

Smoking in the vehicle

The Smoke Free Regulations 2007 state that any private hire or hackney carriage vehicle shall be smoke free if used by a member of the public whether or not for hire and reward.

A driver is not allowed to smoke in their vehicle **at any time** or permit any other person to smoke in their vehicle, whether they are working or not. Under the Health Act 2006 all private hire / hackney carriage vehicles are required to be smoke-free **at all times** even when not being used for work purposes.

'No Smoking' signage must be displayed in the vehicle in accordance with the legislation. Failure to comply with the above may lead to a fixed penalty notice being issued or a criminal prosecution

The use of electronic / vapour cigarettes is also **not** permitted to be used in a licensed vehicle.

The licensed driver who has agreed or has been hired to be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at such appointed time and place.

Parking

The driver shall not park or position the vehicle in such a manner as to cause obstruction on a public highway.

The driver of a private hire vehicle shall not park the vehicle at such 'public' locations or positions whereby the vehicle appears as if it is available for immediate hire. Similarly, the driver must not wait or park in a location, especially near to a place of entertainment hospitality or leisure which may encourage an approach from a member of the public to enquire as to the vehicle's availability for hire.

Lost Property

At the end of every journey the driver shall carefully search the vehicle for any property which may have been accidentally left in the vehicle. If the driver finds any such property, or it is handed by any other person carried in the vehicle, the driver must hand the property over to the Operator with whom the booking was made.

Carrying a copy of the conditions

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

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.

Failure to comply with any condition may also constitute an offence under Section of the Local Government (Miscellaneous Provisions) Act 1976

APPENDIX G



BARNLSLEY

Metropolitan Borough Council

PRIVATE HIRE OPERATOR LICENCE CONDITIONS

Any reference in these conditions to the “Act” means the Local Government (Miscellaneous Provisions) Act 1976. The operator shall comply with all relevant statutory requirements contained in Part II of the Local Government (Miscellaneous Provisions) Act, 1976

Definitions

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, and has the same meaning as in Section 80(1) of the Local Government (Miscellaneous Provisions) Act 1976

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

General

Every contract for the hire of a licenced private hire vehicle is deemed to be made with the operator who initially accepts the booking for that vehicle whether or not he/she 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 Barnsley MBC.

The Licence is issued in respect of the person(s) and premises whose details are named on the licence, and is non-transferable. If at any time during the period of the licence the operator for any reason does not wish to retain the Licence, the licence may be surrendered to the Licensing Officer at the Council.

The Operator can only operate vehicles and drivers licensed by Barnsley MBC.

The Operator must not allow the use of unlicensed drivers or vehicles under any circumstances.

It is the responsibility of the operator to obtain appropriate planning, building control or any other relevant permission in respect of the premises.

An operator cannot operate from any premises other from that stipulated on the licence.

Notifications

The operator shall notify the Council in writing of any change of his/her address during the period of the Licence within 7 days of such change-taking place.

The operator must notify the Licensing Section **in writing within 5 working days** details of any conviction, binding over, caution, fixed penalty notice, warning or reprimand imposed on him/her during the period of the licence.

Specifically, the operator must notify the Council **within 48 hours** of any arrest and release, charge or conviction for any sexual offence, any offence involving dishonesty or violence. An arrest or charge for any of the offences listed above may result in a review by the Council as to whether the licence holder is fit to continue to do so.

Failure to notify the Council could be seen as behaviour that questions the honesty of the operator and therefore the suitability of the licence holder, regardless of the outcome of the initial allegation might remain open to question.

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.

Requirement to keep records of vehicles and drivers

The operator shall keep comprehensive records of all licensed drivers including any hackney carriage driver undertaking private hire work, such as:

- The licensed driver's full name;
- Current address;
- Telephone number – mobile and home;
- Copy of the driver's DVLA licence;
- The driver's licence issued by Barnsley MBC;
- The vehicle licence issued by Barnsley MBC
- Vehicle details, i.e. make, model, colour, registration number;
- Vehicle identification documentation i.e. MOT, insurance certificate(s) / cover notes. Copies of these documents will demonstrate continuing insurance cover;
- The date when the driver began working for the operator and subsequently the date they stopped;
- Driver's call sign (if any)

All records kept by the operator shall be produced upon request to an authorised officer of the Council or Police Officer.

All records kept by the operator shall be kept for a period of 12 months following the date of the last entry.

The operator shall ensure that a full up to date list of drivers and vehicles working for the company is completed and presented to the licensing team when requested by the licensing office.

Records to be kept of each booking

The operator must keep a true a proper record of every booking of a private hire vehicle invited or accepted by him.

The record shall either be kept in a suitable book with consecutively numbered pages, or in an alternative manner confirmed by the Council by notice to the operator.

Either way, the operator must, before each journey commences, enter the following:

1. the name of the passenger;
2. date and time the booking was received
3. the pick-up point;
4. the destination address;
5. how the booking was made, i.e. in person, by telephone etc.;
6. the fare agreed for the journey;
7. name of the dispatcher;
8. time the vehicle was despatched;
9. the name of the driver (including call identification);
10. the driver's licence number;
11. the vehicle registration number of the vehicle (including call sign);
12. The daily start and finish time for each driver

NB The operator must not allow any driver to demand from the hirer of a private hire vehicle a fare that is more than that previously agreed with the hirer.

Insurance

Operators must make sure that all hackney carriages and private hire vehicles operated are fully insured for use as a hackney carriage or a private hire vehicle at all times and has a valid Certificate of Compliance and a valid licence in force.

Retention and display of licence

The operator licence holder shall at all time keep on public display at the premises from which he/she operates, a copy of the Licence.

If the public do not have access to the premises, the operator shall produce the licence issued to him/her by the Council, upon request by an authorised officer.

Conduct of Operator

The operator shall provide a prompt, efficient, and reliable service and for this purpose shall in particular:-

Ensure that when a vehicle has been booked, the driver and vehicle attend at the appointed time and place punctually, unless unforeseeably delayed or prevented by sufficient cause. If there is a known delay, the customer should be informed of this as soon as possible;

Ensure that all drivers, when working, are presentable and wearing their driver badge. All vehicles should be clean, roadworthy and that the vehicle licence plate issued by the Council is affixed to the vehicle in such a manner and position as prescribed by the Council.

The Operator shall not permit or encourage drivers to wait in any private hire vehicle at such 'public' locations or positions whereby the vehicle's appearance makes it look like it is available for immediate hire and / or its location may encourage an approach from a member of the public to enquire as to the vehicle's availability for hire (which may or may not result in an actual hiring) which, had the driver / vehicle not been at that location, might not otherwise have been requested.

The operator, controller(s), driver(s) or anyone else connected with the business must not refuse a booking or otherwise discriminate against a customer or other member of the public either directly or indirectly on the grounds of gender, age, marital status, social class, race colour, ethnic or national origin, religion, disability (including the carrying of assistance animals) or sexual orientation.

Advertising

The operator shall not cause any advertisement in respect of his / her business or the vehicles used for that purpose to include the words 'taxi' or 'cab', whether in the singular or plural, or any such other words that may be similar in meaning or appearance to either of those words, whether alone or as part of another word(s).

Only licensed vehicles may carry advertisements in relation to the private hire operator and any such advertisements must be submitted to and approved by the Licensing Officer at the Council prior to being used.

Only the private hire operator business name and telephone number will be allowed. In addition to this requirement 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.

The "Private Hire Vehicle Advanced Booking Only", signage must be in contrasting colour to the vehicle, be at least 19" x 6" in area and be in a prominent position in the centre of the door panel.

Sub-contracting

Section 55A of the 1976 Act, inserted by the Deregulation Act 2015 permits operators licensed by the Council to sub-contract a private hire booking to another operator licensed by the Council or to any other licensed operator holding a private hire Operators licence granted by another local authority. **A booking must not be sub-contracted directly to a licensed driver.**

The operator must advise the customer that the booking is being sub-contracted to another licensed operator and provide the customer the details of that licensed operator

NB If a journey is sub contracted to another operator the details above must still be recorded and kept in accordance with these conditions by the operator who took the initial call.

The operator shall at all times have valid Employers' Liability Compulsory Insurance in place and Public Liability Insurance. A copy of both of these certificates shall be displayed on the premises where the public can view them.

Complaints

The operator must have a complaints procedure in place, which can be audited and checked by the licensing authority at any time on request.

Any complaints made against the operator, driver(s), vehicle(s), or any other aspect of the business, must be recorded either electronically or by any other method and be available for inspection by an authorised officer or police officer.

Any complaint received should show what action has been undertaken and if the complaint has been resolved. There must be in place a complaint / procedure policy giving details of what procedures will be followed if a complaint is made. This document must be made available for inspection by an authorised officer.

At the request of the Council, an operator must produce at a date to be agreed, all records of complaints received during that period of time.

All records shall be kept for a period of not less than 1 year from the date of the last entry and any records stored electronically must be capable of being downloaded and/or printed.

All complaints of a serious nature should be reported to the Licensing Officer within 24 hours.

Lost Property

The operator shall keep a record book of particulars of any property accidentally left in a vehicle. Items found containing personal data should be reported to the issuing authority i.e., DVLA (Driving Licence), Home Office (Passport), Bank Card, (issuing bank), if you are unable to do this, the property can be handed in to the Police. In any event, it is the Operator's responsibility to make reasonable efforts to trace the owner.

Failure to comply with any condition may also constitute an offence under Section of the Local Government (Miscellaneous Provisions) Act 1976.



BARNSLEY

Metropolitan Borough Council

BYELAWS IN RELATION TO HACKNEY CARRIAGE DRIVERS AND VEHICLES

Made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875, by the Council of the Metropolitan Borough of Barnsley with respect to hackney carriages in the Metropolitan Borough of Barnsley

Interpretation

1. Throughout these byelaws:-

"The Council" means the Council of the Metropolitan Borough of Barnsley

"The District" means the Metropolitan Borough of Barnsley

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

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

(b) A proprietor or driver of a hackney carriage shall:-

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

Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of a hackney carriage shall:-

- (a) provide sufficient means by which a person in the carriage may communicate with the driver;

- (b) cause the roof or covering to be kept water-tight;
 - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver;
 - (j) furnish the carriage with an efficient lamp so constructed and affixed as to afford sufficient lighting for the interior of the carriage;
 - (k) the proprietor of a hackney carriage shall cause the carriage to be fitted with a sign which bears the words "**FOR HIRE**" in letters two inches in height and is fitted with the means whereby these words may be electrically illuminated; such sign shall be fitted in the centre at the front of the canopy of the carriage in such a manner that the aforesaid words are clearly and distinctly visible and legible at all times when the sign is illuminated;
 - (l) the driver of a hackney carriage shall cause any sign bearing the words "**FOR HIRE**" which is affixed on the carriage in accordance with the requirements of the foregoing byelaw to be electrically illuminated so as to be clearly visible both by day and by night at all times when the carriage is standing or plying for hire within the district, but not hired.
4. The proprietor of a hackney carriage shall within twelve months of the date of confirmation of these byelaws cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say:-
- (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "**HIRED**" to appear on the face of the taximeter;
 - (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
 - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf;

- (d) the word "**FARE**" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

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

- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
- (b) as soon as carriage is hired by distance, and before beginning the journey, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "**HIRED**" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;
- (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972 and also at any other time at the request of the hirer.

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

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

- (a) proceed with reasonable speed to one of the stands fixed by the byelaw in that behalf;
- (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
- (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;
- (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward;
- (e) when the first carriage on the stand remain with the carriage and be ready to be hired at once by any person.

The driver of a hackney carriage shall not, save with the express consent of the hirer, smoke at any time whilst the carriage is occupied by a passenger or passengers.

A proprietor or driver of a hackney carriage shall not use or permit the carriage to be used or occupied by any person for any indecent immoral or improper purpose.

- 7(4) The driver of a hackney carriage who is standing or plying for hire shall at any time when required by any person produce a copy of these byelaws.
8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
 9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
 10. The proprietor or driver of a hackney carriage who has agreed or had been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
 11. The driver of a hackney carriage when hired to drive to any particular destination, shall subject to any directions given by the hirer, proceed to that destination by the shortest available route.
 12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
 13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
 14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading;
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.
 15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaws in that behalf to be exhibited inside the carriage in clearly distinguishable letters and figures.
 - (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

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

19. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
20. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
 - (a) Take the property as soon as practicable to a Police Station within the
Barnsley Borough area
 - (b) be entitled to receive from any person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

Penalties

21. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding twenty pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each date during which the offence continued after the conviction therefore.

APPENDIX I



BARNSLEY

Metropolitan Borough Council

DETERMINING DISPENSATIONS FROM THE DISPLAY OF PRIVATE HIRE VEHICLE LICENCE PLATES

The Local Government (Miscellaneous Provisions) Act 1976 requires that the Council must issue a private hire vehicle licence with an identity plate or disc and that the proprietor should not use, or permit the use of that vehicle without displaying the plate in the manner prescribed by the Council.

The Act also gives the Council the discretion to grant a proprietor a dispensation from displaying the licence plate on their licensed private hire vehicle in certain circumstances.

The clear identification of a licensed vehicle is considered a crucial safety aspect, particularly when visiting such places as airports and the centres of large towns. Each application for a dispensation will therefore be considered on its own merits with the overriding consideration being the safety of the public.

Dispensation will not be granted as a matter of course. A clear case for the dispensation will have to be made by the vehicle proprietor to the Council. In determining an application it will normally be the status of the passenger and the executive nature of the work that will indicate whether or not the dispensation should be granted. The high quality of the vehicle being used will be supportive of an application, but will not be the sole determining factor. Dispensations will normally be granted only where the work is carried out mainly or wholly outside the Borough. Journeys conducted wholly or mainly within the Borough will not normally be granted a dispensation unless there are exceptional reasons to do so.

The type of vehicle that might be considered appropriate for dispensation will, by necessity be of the 'luxury' or 'executive' type and will need to be in immaculate condition both inside and out with no visible defects or marks. Photographs of the proposed vehicle will normally be requested as part of the application.

The type of work which would be considered for the grant of a dispensation would be termed 'executive style' and, although not limited to, could include:

- (a) contracts with senior personnel of large companies to carry a managing director or their clients;
- (b) contracts with national or local government, or similar agencies, to carry senior personnel and guests on official business;
- (c) the carriage of well-known personalities such as sports stars or other celebrities;

The Council expects that vehicles proposed for exemption will be engaged solely or substantially in the provision of the above type of executive work or similar. Other situations will be considered on their individual merits. Applicants may be required to provide further details and supporting documentation, for example, a business plan including contracts and the reasons for requiring exemption from displaying the normal private hire markings.

Where a dispensation is granted the vehicle must not display any indication that it is a private hire vehicle. This includes window/door stickers, advertising, company names, telephone, numbers and web site addresses or any form of advert or display that indicates that the vehicle is a private hire vehicle or is available for future hire.

Drivers of vehicles that have been granted dispensations will be expected to be dressed smartly at all times i.e. suit and tie, tailored dress etc.

For vehicles that qualify for a dispensation, the following additional conditions will apply:

1. The vehicle will be luxurious and of a higher specification than standard model vehicles. It should be relatively new, ideally under 3 years old (*though age will not preclude the licensing of a vehicle in exceptionally good condition*) and be of suitable size, appearance and design.
2. All bookings requiring an exempt vehicle must be made by way of a written contract. Such contracts must be in place for no less than 24 hours prior to the commencement of the journey. Written contracts shall be made available for inspection by an Authorised Officer or Police Constable at any reasonable time and be retained for a period of not less than 12 months.
3. Exempt Vehicles that conduct Private Hire work without a written contract in place as per condition 2 above could have their exempt vehicle status withdrawn. They will then be required to display the Council's standard Private Hire Vehicle Licence plates both internally and externally on the vehicle.
4. Exempt vehicles shall not display any external markings e.g. operator details or advertisements.
5. Vehicles will be required to display the rear license plate mounted internally to the boot lid and the vehicle's front licence plate should be carried in the front passenger glove box indicating that the vehicle is a licensed private hire vehicle with the Council.
6. A paper copy of the private hire vehicle and Exemption Notice must also be carried within the vehicle and must be available for inspection (on request) by any interested party.
7. The hirer must be advised in advance of the journey that the vehicle dispatched to collect them will not be displaying the standard private hire vehicle licence plates.
8. A vehicles which is awarded exemption remains a licensed private hire vehicle and, as such, can only be driven by a Council licensed private hire driver and booked in advance through a Council licensed private hire operator.

9. While the licensed vehicle is covered by the dispensation, the vehicle must not undertake any “regular” private hire work.

NB Any breach of the exempt vehicle conditions could result in the vehicle having its exempt vehicle status withdrawn and the vehicle must then display the private hire vehicle licence plate.

APPENDIX J



BARNSLEY
Metropolitan Borough Council

Policy Guidance to Assist with the Assessment of 'Fit and Proper Person' with Regard to all Private Hire Driver, Hackney Carriage Driver and Private Hire Operator Licences

Version 6
Revised * June 2021

Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing.

Adherence to the guidance may also provide protection to licensing authorities on appeal. The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Chapter 1: Introduction

1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.

1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.

1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.

1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.

1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.

1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*

1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no

meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.

1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.

1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

Chapter 2: Offenders and Offending – An Overview

2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'. With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.

2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.

2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.

2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.

2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of reoffending and harm. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

2.6 Flaud noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place.

2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.

2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences.

2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.

2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

Risk of re-offending

2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as "any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual's ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time".

2.12 Kurlychek, 2007 in her study noted that "a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age".

2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males.

2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.

2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that "individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past".

2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual's previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person's ability to sustain such change. This can be a long process that can only be achieved over time.

Chapter 3: 'Taxi' Licensing Overview

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

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

3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT "*Taxi and Private Hire Licensing – Best Practice Guide*" para 8 which states: "The aim of local authority licensing of the taxi and PHV trades is to protect the public."

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

3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.

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

3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.

3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.

3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

Taxi Drivers

3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory criteria to be met before a licence can be granted and many authorities grant "dual" or "combined" licences to cover driving both types of vehicle.

3.11 An applicant must hold a full DVLA or equivalent driver's licence, have the right to work in the UK, and be a "fit and proper" person.

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

3.13 An applicant must also have the right to remain, and work in the UK.

3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.

3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*. Silber J said:

“... the purpose of the power of suspension is to protect users of licensed vehicles and

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

3.16 This is reflected in a test widely used by local authorities:

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

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

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

3.19 The local authority has the power to require an applicant to provide: “such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.” This “information” can include any pre-conditions or tests that they consider necessary

3.20 Some of these are universal, such as medical assessments. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

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

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.

3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability.

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

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

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

3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.

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

3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.

3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.

3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.

3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

Private Hire Operators

3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person.

3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.

3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?

3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.

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

3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:

“Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”

3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

Vehicle Proprietors

3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.

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

3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.

3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.

3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that

can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?"

Chapter 4: Guidance on Determination

4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.

4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.

4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, up-standing, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.

4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

Pre-application requirements

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

Vehicles:

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

Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;

- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

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

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

4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.

4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership is “safe and suitable” to hold the licence.

4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction.

4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.

4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.

4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or

private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.

4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.

4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.

4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.

4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.

4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.

4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.

4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.

4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.

4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

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

Exploitation

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

Offences involving violence

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

Possession of a weapon

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

Sex and indecency offences

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

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

Dishonesty

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

Drugs

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

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

Discrimination

4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Private Hire Operators

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

4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.

4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.

4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.

4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.

4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.

4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.



BARNSLEY
Metropolitan Borough Council

DRIVER'S BADGE APPLICATION CHECKLIST

Hackney Carriage and Private Hire Driver Theory Test Guidance

This Guide has been compiled to assist you in preparing for the Taxi Theory Test. Take some time to digest the contents and learn the relevant legislation, conditions and locations so that you have the best possible chance of being successful.

The test comprises eighty questions in five sections and you will be required to correctly answer at least 12 questions from each section to pass the test. Most of the questions are multiple choice and a total of four possible answers are provided, one correct answer is required per question

When submitting your application, please ensure the following documentation is completed and uploaded. You must make your application online at:
<https://www.barnsley.gov.uk/services/licensing/taxi-licences/apply-for-a-new-taxi-drivers-licence/>

- **Application form**
Including character references, disclosure of convictions, and medical if required (medical exempt if you possess an HGV or PSV driving licence).
- **Theory Test**
Applicants should book and pay for the test [online](#).
Applicants must bring a form of photo ID, such as a driving licence or passport, when they sit the exam. Failure to produce acceptable ID will result in the individual being refused entry into the exam without refund.
All cancellations are non-refundable and anyone failing a theory test must pay a further fee to re-sit the test.
- **Driving Test**
Driving tests are conducted through the Blue Lamp Trust & Taxi Driving Solutions.
- **Blue Lamp Trust**

To book a test through the Blue Lamp Trust you can either telephone on 0333 700 0157 Monday to Friday 9.30 – 15.00 or by visiting

<https://www.bluelamptrust.org.uk/>

- **Taxi Driving Solutions**

To book a test through Taxi Driving Solutions you can either call them on 01423 298398 or by visiting: www.kpcohsp.co.uk

Taxi Driving Solutions can also offer the enhanced taxi assessment which includes a wheelchair exercise.

A certificate of completion must be produced as part of your application.

- **DBS (Disclosure & Barring Scheme Check)**

The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.

Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults.

Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the DBS at <https://www.gov.uk/government/collections/dbs-filtering-guidance>

As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer, acting in accordance with specific Home Office guidance, reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure.

DBS Checks

ENHANCED DBS CHECK AND STATUTORY DECLARATION OF CONVICTIONS FORM

IT IS STRONGLY RECOMMENDED THAT YOU CHECK THE COUNCIL'S GUIDELINE POLICY ON CRIMINAL CONVICTIONS PRIOR TO MAKING AN APPLICATION FOR A LICENCE. WHILE EACH APPLICATION IS DEALT WITH ON ITS OWN MERITS, IT IS UNLIKELY THAT YOU WILL BE ABLE TO OBTAIN

A LICENCE IF YOU FAIL TO MEET THIS GUIDELINE POLICY, UNLESS THERE ARE EXCEPTIONAL MITIGATING CIRCUMSTANCES.

All prospective applicants will be expected to complete an enhanced DBS check prior to obtaining their licence. Under NO circumstances can the Council issue a licence until the appropriate DBS check has been satisfactorily completed.

To ensure that information contained within a DBS Certificate is up to date this document will only be valid for a maximum of three calendar months from the date of issue.

All drivers will also be required to evidence that they have signed up to the on-line DBS checking system and that they have given the Licensing Office the required permissions to complete a further enhanced DBS check every six months while they hold a current dual drivers license with Barnsley MBC.

As DBS checks can take up to 4 weeks to be returned from the Disclosure & Barring Service, you may wish to apply for your DBS check relatively early in the application process.

Due to the way that information can be provided by the Disclosure & Barring Service only checks completed by the Council's Human Resources Section will be accepted.

The Council's Human Resources Safeguarding Team deals with DBS applications at Westgate Plaza One, Westgate, Barnsley S70 2DR. These are undertaken on an appointment only basis and appointments can be made by telephoning 01226 773428. The fee for an enhanced DBS Check (£64) must be paid at the time of making the DBS application; payments can be taken via chip & pin only.

Please ensure you have proof of your National Insurance Number, Address evidence (less than three months old) and your Driving Licence (if you have a current Driving Licence, then a photo card or old style paper Licence are both acceptable) with you when you make the application. If you have a valid passport, you must also submit that. An email address must also be provided as paper applications are no longer accepted.

At the point of calling to make a DBS check appointment, you will again be advised of the correct documents to submit. In the absence of either a valid passport or Driving Licence, you will be informed of alternative acceptable documents.

For foreign Nationals or for UK citizens who have worked or lived at some point overseas, the following will apply:

- If you have lived outside the UK for a period of 5 years or more, you must provide confirmation of such previous residential addresses, together with a list of previous UK residential addresses within the last five years.
- In all cases the applicant should request a Certificate of Good Repute/Letter of Good Conduct from the embassy of those country/countries. If this is not in English, a translation will be required (the translator must be approved by the licensing section prior to the translation taking place).

Any cost incurred in obtaining relevant certification under this section will be at the applicants' expense.

The Disclosure and Barring Service Update Service

Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.

The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.

The Council will be able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).

A DBS certificate is currently £64, signing up to the on-line system will cost £13 per year and save the inconvenience of having to arrange and attend a DBS appointment.

If any licensed driver chooses not to sign up to the online system then following the DFT guidance we will still DBS check drivers every 6 months and so a driver will still be required to apply for and provide a fully enhanced disclosure certificate to the Licensing Office every 6 months

- **Medical Form**

Your completed application should be submitted within 3 months of the date your medical form was signed by your doctor.

- **Character References**

Your completed application should be submitted within 3 months of the earliest date your character reference form was signed by a referee.

- **Fee**

Dual Driver licences (Private Hire & Hackney Carriage) are granted for either 1 or 3 years.

A 1 Year Licence costs £137

A 3 Year Licence costs £221

NOTES FOR THE GUIDANCE OF APPLICANTS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

AGE

Before you apply for a licence you must:-

(a) be over 21 years - hackney carriage

be over 19 years - private hire, subject to production of insurance cover if under 21 years;

(b) have held a full UK domestic driving licence for at least 12 months. (Driving a car under the authority of a provisional licence or certificate of passing test does not count as part of the 12 month period.)

Since 8th June 2015, paper counterparts for NEW licences are no longer issued and have no legal status.

The following link may be of use to Drivers:

<https://www.gov.uk/view-driving-licence>

LICENCE FEES

All licences issued are dual licences (combined Hackney Carriage / Private Hire) and run for 1 or 3 years depending on the duration of licence applied for and fee paid.

DRIVING SKILLS TEST

The next step is to take and pass a driving skills test.

This test will be carried out by The Blue Lamp Trust or Taxi Driving Solutions. Private hire and Hackney Carriage drivers will be required to pass the saloon vehicle test, PLUS the Wheelchair element if they wish to drive a wheelchair accessible vehicle.

KNOWLEDGE TEST

The next step is to take a written "knowledge of the Metropolitan Borough" test. Appointments for taking the test can be made

<https://www.barnsley.gov.uk/services/licensing/taxi-licences/apply-for-a-new-taxi-drivers-licence/>

First attempt at the theory test is £65, subsequent tests will be charged at £60.

The test is multiple choice and will last a maximum of one hour and will include five sections:

- | | | |
|-----------------------------|----|-----------|
| • Highway code | 16 | Questions |
| • Local knowledge | 16 | Questions |
| • Licence /local conditions | 16 | Questions |
| • Disability/Customer care | 16 | Questions |
| • Numeracy & Literacy | 16 | Questions |

More information is provided in a separate theory test guidance document which is available within the licensing online at www.barnsley.gov.uk.

To pass the test you must get at least 12 questions correct from each section. Any person failing the test will be required to retake the FULL TEST and the appropriate fee will be charged.

Where an applicant fails three theory tests, it will be unlikely that the person will have the appropriate skills and attributes to be a licensed driver with this Authority, therefore, the person will be barred from undertaking any further theory tests for a period of **six months** from the date of the last failure, to allow the person to develop the necessary skills.

Statutory Declarations of convictions

All prospective drivers, and every driver when they renew their licence, will be required to complete a statutory declaration of convictions form.

On this form you will be required to declare any convictions, formal cautions or fixed penalty notices (e.g. motoring offences) that you have received in the last three years. Failure to declare any convictions, cautions or fixed penalty notices or giving a false declaration will constitute reasonable cause for the Council to refuse to grant or revoke the licence.

Medical questionnaire

You will also be required to complete a medical questionnaire (unless you hold a current HGV or PSV driver licence). This will be required to be certified and stamped by your Doctor to prove that you are medically fit to drive a licensed vehicle.

You will be required to complete further Medical forms at specific time periods if you continue to hold a licence e.g. at 45 years of age and then every 5 years until 60 and then on an annual basis.

Other information

In addition to the above, you will also be required to obtain character references and submit these with your application form.

Please note that any fee paid in respect of a licence is an 'application fee' and is not refundable and therefore you should ensure that you meet all the requirements to become a driver and submit all the relevant documents at the time of the application. Failure to do so may result in your application being refused.

APPENDIX L



BARNSLEY
Metropolitan Borough Council

BARNESLEY METROPOLITAN BOROUGH COUNCIL
HACKNEY CARRIAGE AND PRIVATE HIRE INSPECTION
AND SPECIFICATION MANUAL

Contents	Page
Section 1 Electrical Wiring and Equipment	6
Section 2 Additional Lamps	7-8
Section 3 Steering and Suspension	9-10
Section 4 Brakes	11
Section 5 Tyres and Roadwells	12-13
Section 6 Seat Belts	14
Section 7 Body and Structure	15-17
Section 8 Door and Seats	18-19
Section 9 Bumper Bars	20
Section 10 Exhaust System	21
Section 11 Fuel System – Pipe and Tanks	22
Section 12 Drivers View of the Road	23
Section 13 Window Glass and Other Transparent Material	24
Section 14 Tricycles and Quadricycles	25
Section 15 Additional Requirements	26
15.1 Speedometer	26
15.2 Transmission	26
15.3 Transmission – Front Wheel Drive	27
15.4 Engine and Transmission Mountings	27
15.5 Oil and Water Leaks	28
15.6 Luggage/Load Space	28
15.7 Trailers and Tow Bars	29
15.8 Plates, Stickers, Signs and Advertisements	29-30
15.9 Taxi Meters	30
Section 16 Ancillary Equipment	31-32
Section 17 Novelty Vehicles	33
17.1 Undue Stresses	33
17.2 Passenger Notices	33-34

Appendices

Appendix A Hackney Carriage and Private Trailer Inspection Sheet

Appendix B Definition of Motor Vehicles

Introduction

Hackney carriages and private hire vehicles are subject to much greater annual mileages and more intensive use than normal private vehicles. The resulting accelerated rate of component wear requires a regular and thorough maintenance programme if the vehicle is to remain safe.

Safety is of paramount importance to the Licensing Service, for this reason hackney carriage and private hire vehicles must be inspected by authorised testing stations throughout their service life.

Every vehicle that is to be used for hackney carriage or private hire work will be inspected by an authorised testing station against the standards laid down in this manual. The framework for this manual is provided by the Hackney Carriage and Private Hire National Inspection Standards produced by the Hackney Carriage and Private Hire Inspection Technical Officer Group.

This manual is available on our website (www.barnsley.gov.uk) for garages, hackney carriage and private hire proprietors, licensed drivers and people or companies that are responsible for maintaining, servicing or repairing licensed vehicle.

Frequency of Inspection

All vehicles are required to be tested twice per year. Vehicles which successfully pass both tests first time will have their test requirement reduced to one test per calendar year and remain at this level unless the vehicle fails its next MOT test, at which point it will return to being tested twice per year.

Vehicles which pass a test and fail a test within the first twelve months will continue to be tested twice per year. Vehicles which fail both tests first time in the initial twelve month period will have their test requirement increased to three times per calendar year. A vehicle will remain at this level until the vehicle passes at least two tests on the first occasion. Once a vehicle complies with this requirement, it will return to being tested twice per calendar year.

All MOT tests must be undertaken at an authorised testing station where the examiner may also make additional observations and see fit to bring this to the attention of the Licensing Service, who may investigate the matter further.

How to use this Manual

The inspection detailed in this manual is to be performed in conjunction with the VOSA private passenger vehicle and light commercial vehicle testing MOT inspection manual (ISBN 978-0-9549352-5-2).

This inspection is not to be used in lieu of a regular preventative maintenance program. Vehicles must be presented for test fully prepared and once the test has begun either a pass or fail certificate **must be issued**. The failure certificate must be sent to the Licensing Service by email immediately or within a maximum of one hour of undertaking the vehicle test.

Email: licensing@barnsley.gov.uk

Note

It is an offence under the road traffic regulations to use an un-roadworthy vehicle on the public highway. Hackney carriage and private hire proprietors/drivers who fail to maintain their vehicles in a safe and roadworthy condition, or drive vehicles that are unsafe may have their licence suspended or revoked by the Council.

Presenting the Vehicle for Inspection

Only vehicles presented as detailed below will be considered for inspection unless special exemption has been issued by the Licensing Service, in these circumstances the proprietor of the vehicle will have a letter confirming this.

Vehicles to be presented are as follows:

- Vehicles with four road wheels and at least four doors
- Right hand drive
- Of sufficient seating capacity to carry at least four and no more than eight passengers in addition to the driver
- A test will not be carried out unless the examination fee has been paid in advance
- All loose seat covers must be removed to allow for inspection of the seat cushions (professionally fitted/tailored seat covers will not be required to be removed)
- Hub caps must be removed from the wheels prior to the inspection but should be made available in the vehicle
- The vehicle must be presented for testing in a clean condition in all areas; interior, exterior, engine, bay and boot. Note: cleaning in the engine bay is to remove excessive build-up of road grime/dirt/oil sludge that might obscure damage/corrosion/poorly maintained items. Excessive cleaning in this area is not required or recommended as some cleaning methods such as steam cleaning/pressure washing/chemicals could cause damage to sensitive engine components.

The Failure Certificate

The test failure certificate must be forwarded by the authorised garage to the Licensing Service.

The garage must forward the full failure results of the inspection to the Licensing Service by email immediately or within a maximum of one hour of undertaking the test.

PROCEDURE AND STANDARDS OF INSPECTION

Section 1

Electrical Wiring and Equipment

Method of Inspection	Reason for Rejection
<p>This examination is limited to that part of the electrical system that can be readily seen without dismantling any part of the vehicle.</p> <p>a Check all electrical wiring for:</p> <ul style="list-style-type: none">• Condition• Security• Position <ul style="list-style-type: none">• Sign of overheating• Heavy oil contamination <p>b Battery and carrier for:</p> <ul style="list-style-type: none">• Security • Battery and leaks	<p>a Wiring</p> <ul style="list-style-type: none">• Not adequately insulated• Not adequately secured• Positioned so that if chafing or clipped to a fuel line or likely to be damaged by heat so that insulation will become ineffective• With clear evidence of overheating• Heavily contaminated with oil <p>b Battery and carrier:</p> <ul style="list-style-type: none">• A battery and/or carrier not secure and likely to become displaced• Insecurity or malfunction of a switch controlling an obligatory light

Section 2

Additional Lamps

Method of Inspection	Reason for Rejection
<p>With the ignition switched on check:</p> <p>a) Reversing Lamps</p> <ul style="list-style-type: none"> • The reversing lamps emit a diffused white light when reverse gear is selected • The lights extinguish when neutral gear is selected • The lamps are in good working order and are secure • The lamps do not flicker when lightly tapped by hand <p>b) Front Fog Lights/Driving Lamp</p> <ul style="list-style-type: none"> • A single front fog lamp emitting a white or yellow diffused light illuminates only when dipped beam is selected • A pair of matched fog lamps both emitting a white or yellow diffused light should illuminate together • A pair of matched, long-range driving lamps, both emitting a white diffused light, should illuminate together <p>c) Roof Signs</p> <p>'For Hire' and Roof Signs</p> <ul style="list-style-type: none"> • Correct style and type of sign as approved by the Council is fitted* • Ensure the sign is securely fastened to the vehicle • Check the condition and security of wiring • Functional test of signs for illumination 	<p>a) Reversing Lamps</p> <ul style="list-style-type: none"> • That fails to operate or does not emit a white diffused light • Fails to extinguish when neutral or forward gear is selected • Are not in good working order or insecure • Lamps/flicker when tapped lightly by hand <p>b) Front Fog Lights/Driving Lamp</p> <ul style="list-style-type: none"> • Lamp inoperative or operates other than in dipped beam mode • Lamps operate incorrectly • Lamps operate incorrectly <p>c) Roof Signs</p> <p>'For Hire' and Roof Signs</p> <ul style="list-style-type: none"> • Incorrect style and type of sign as approved by the Council fitted* • Insecure sign • Wiring is not in good condition and is loose or chaffed • Illumination not consistent across the sign i.e. all light bulb(s) LED(s) illuminated when switched on

* Roof Sign to be 18" x6" x 4.5" and also be of magnetic type with black writing on yellow to front and black writing on red to rear. Writing must read 'TAXI'.

* Integral roof signs will be permitted as an alternative on custom-built hackney carriage vehicles

Section 3

Steering and Suspension

Method of Inspection	Reason for Rejection
<p>With both hands rock the steering wheel from side to side at right angles to steering column and apply slight down ward and upward pressure to the steering wheel rim (in line with column).</p> <p>a) Steering Wheel</p> <p>Note:</p> <ul style="list-style-type: none"> • Movement between steering column and steering wheel • Fractures in steering wheel hub • Fractures in steering rim • Steering wheel spokes loose or fractured • Jagged edges on steering wheel rim • If possible, check the retaining device on steering wheel is fitted <p>b) Steering Column</p> <ul style="list-style-type: none"> • Try to lift the steering in line with the steering column and note the movement at centre of steering wheel • Push the steering wheel away and then pull it towards you. Note any side play • While steering wheel is rotated, check for deterioration in any flexible coupling or universal joint of steering • Where practical, check any clamp bolts for presence and security of locking devices (these may be located in the engine compartment or under chassis) 	<p>a) Steering Wheel</p> <p>Note:</p> <ul style="list-style-type: none"> • No movement between steering column and steering wheel • Steering wheel hub fractured • Steering wheel rim fractured • A steering wheel spoke loose or fractured • Jagged edges on steering wheel rim likely to injure the driver • A steering wheel hub-retaining device not fitted <p>b) Steering Column</p> <ul style="list-style-type: none"> • Excessive movement of centre of steering wheel in line with steering column (end float) Note: Certain types of steering column might show some movement not due to excessive wear, e.g. those fitted with universal joints or flexible couplings • Excessive side play indicating worn top bearings or insecure top mounting bracket • A flexible coupling or universal joint deteriorated, worn or insecure • A coupling clamp or locking device loose or missing

<p>c) Suspension Spring Units and Linkages</p> <p>Coil Springs</p> <ul style="list-style-type: none">• Welding repairs	<p>c) Suspension Spring Units and Linkages</p> <p>Coil Springs</p> <ul style="list-style-type: none">• Repaired by welding
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Section 4

Brakes

No additional inspection requirements

Section 5

Tyres & Roadwells

Method of Inspection	Reason for Rejection
<p>a) Condition of Tyres</p> <p>On all tyres including spare wheel - where fitted, examine each tyre to ensure it meets all the requirement laid down in the MOT Inspection Manual for Car & Light Commercial Vehicles (ISBN 0-9549239-0-1)</p> <p>Note 1 Where a doughnut tank is fitted in the boot for LPG, the spare wheel if still carried in the boot must be properly secured. Alternatively, a spare wheel cage installed to manufactures and British Standards may be fitted to the underside of the vehicle</p> <p>Note 2 A vehicle may be permitted to operate without a spare wheel subject to it being fitted with suitable run flat tyres or carrying on approved manufacturers temporary repair kit</p> <p>Important Note - Stretch Limousines In the case of American imported stretched limousines, vehicle inspectors will need to be vigilant when inspecting tyres for suitability. Most converted stretched limousines are converted from Ford Lincoln Town Cars with a number of Cadillac variants also.</p> <p>In approved 'stretch' limousine conversions, the maximum weight is approximately 7,100lbs (3.2 tonnes) and care should be exercised when determining suitable tyre ratings. Generally speaking a Ford Lincoln or Cadillac would require a tyre rating index of at least 107 T, which gives a load rating of 2,149lbs (975kgs) with maximum speed of 118 miles per hour.</p>	<p>a) Condition of Tyres</p> <p>In accordance with the MOT Inspection Manual for Car & Light Commercial Vehicles (ISBN 0-9549239-0-1)</p> <p>Note 1 Space saver tyres should only be approved with the support of a method statement highlighting driver responsibilities with regard to the maximum permitted speed and that space savers are a temporary 'get you home tyre'</p> <p>Note 2 Not having the suitable tyre fitted or not carrying on approved manufactures temporary repair kit</p> <p>More information and guidance can be obtained from the National Limousine & Chauffer association on: www.nlca.co.uk</p>

Section 6

Seat Belts

No additional inspection requirements.

Section 7

Body and Structure

Method of Inspection	Reason for Rejection
<p>a) Body Condition (Exterior)</p> <ul style="list-style-type: none"> Examine the body thoroughly for security, corrosion, damage poor repair/paint match or sharp edges that are likely to cause injury <p>b) Body Condition (Interior)</p> <ul style="list-style-type: none"> Examine thoroughly the interior for damaged, insecure or loose fixtures, fittings or accessories Dirty missing and worn trim, carpets, seat belts, mats, headlining, boot area and inclusion of prescribed items. Remove mats to inspect carpets underneath for cleanliness and wear Examine interior lights, motion door locks and warning lights Examine heating, demisting and air condition systems for correct operation, including passenger compartment controls where fitted 	<p>a) Body Condition (Exterior)</p> <ul style="list-style-type: none"> An insecure or missing panel, trim step or accessory Any sharp edge whatsoever which may cause injury Dull faded paintwork which has lost its gloss finish or paint miss match to a panel(s) to such an extent that it detracts from the overall appearance of the vehicle Evidence of poor repairs and/or paint finish to a repaired panel(s) including runs and overspray to adjoining panels/trim that detracts from the overall appearance of the vehicle Obvious signs or rust/corrosion of any size particularly those that are covered by advertising signs Lack of clearly displayed or omission of 'No Smoking' signs <p>b) Body Condition (Interior)</p> <ul style="list-style-type: none"> Insecure and loose fixtures, fittings or accessories Missing, dirty, soiled stained worn or insecure trim, carpets, headlining and mats An inoperative interior light (all lights must illuminate if they are part of the manufacturers standard equipment). Missing or defective motion switch/lock or warning lamp not illuminated A system which does not function correctly, or any part is missing including vents, controls and switches An opening window that is imperative or difficult to open and

<p>(includes electric front and rear screen demisters)</p> <ul style="list-style-type: none"> • Examine all windows ensuring they allow lowering and rising easily • Examine interior door locks, grab handles/rails and safety covers • Examine grills/partitions for security and condition • Examine electrical wiring for condition, security, including intercom systems • Examine the boot for access, contents, cleanliness and water ingress <p>Additional items to be inspected in limousines and novelty vehicles:</p> <ul style="list-style-type: none"> • All fixtures and fittings i.e. mirror balls, drinks cabinets, televisions etc must be stored securely and not hinder the ingress or egress from the passenger compartment • A notice identifying the maximum seating capacity to be displayed in the passenger compartment and clearly visible to all passengers. It may be necessary to display more than one sign indicating the maximum seating capacity <p>c) Mandatory 'No Smoking' Sign</p> <ul style="list-style-type: none"> • Check for presence and display of 'No Smoking' sign <p>Please Note: a vehicle presented in a dirty, untidy condition will not be tested</p>	<p>or close mechanism broken/missing</p> <ul style="list-style-type: none"> • Missing, defective or loose door locks, child locks, protective covers, grab handles/rails which are rigid to aid the blind and partially sighted and are worn to excess • A grill/partition which is insecure or has a sharp edge(s) which may cause injury to passengers or driver • Frayed, chaffing wiring, non-shielded terminals and cables so routed that they cause a trip hazard, cables that can be easily disconnected. Intercom system defective, warning light inoperative and signs illegible/missing • Unable to open, close and or lock boot lid, failure of boot lid support mechanism, defective deals/evidence of water ingress, dirty boot and or carpets, loose items stored in the boot (i.e. spare wheel tools and equipment etc) • Any fixture or fitting that is loose or insecure or where walkways are blocked that prevents ease of ingress or egress from the passenger compartment • No maximum seating capacity sign or signs displayed. A sign or signs not clearly visible to all passengers <p>c) Mandatory 'No Smoking' Sign</p> <ul style="list-style-type: none"> • 'No Smoking' sign missing/not adequately displayed
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Section 8

Doors and Seats

Method of Inspection	Reason for Rejection
<p>a) Doors & Emergency Exits</p> <ul style="list-style-type: none"> • Examine the condition of all doors and emergency exits. Check door locks, striker plates, handles and hinges for security, wear and missing and damaged trim/cover plates • Check markings describing the presence and method of opening emergency exits(s) are readily visible on or adjacent to the exit and are legible • Check that seats are secure, clean and not unduly worn <p>Please Note: with the exception of 'novelty vehicles' only vehicles with forward and rear facing seats will be accepted</p> <p>b) Accessibility - wheelchair vehicles</p> <p>Door configurations for wheelchair accessible vehicles:</p> <ul style="list-style-type: none"> • Single rear door - must be open to a minimum of 90 degrees and be capable of locking in place • Twin rear doors - both must open to a minimum of 180 degrees and be capable of being locked in place. This is to enable an attendant (driver or guide) to assist the wheelchair passenger if required 	<p>a) Doors & Emergency Exits</p> <ul style="list-style-type: none"> • A door or emergency exit does not latch securely in the closed position • A door or emergency exit cannot be opened from both the inside and outside the vehicle from the relevant control in each case • Missing, loose or worn handles, lock or striker plate • Markings describing the presence and method of opening an emergency exit missing, illegible or incorrect • Missing, loose or damaged trim/cover plate • Seat cushion(s) stained, torn, holed, worn or insecure. A seat that does not provide adequate support at base or backrest. Torn, slashed or badly stained seats are not acceptable <p>b) Accessibility - wheelchair vehicles</p> <ul style="list-style-type: none"> • Door does not open to a full 90 degrees and cannot be secured in the open position • Twin doors do not open to a full 180 degrees and cannot be secured in the open position

Section 9

Bumper Bars

Method of Inspection	Reason for Rejection
<p>Examine the bumper bars and check:</p> <ul style="list-style-type: none">• They are secure to their mountings• The mountings are secure to the vehicle• There is no evidence of damage	<ul style="list-style-type: none">• A loose bumper bar or mounting. A weakened bumper bar and/or mounting is insecure because of poor repairs• A fractured mounting bracket. Mounting bolts so worn or elongated that the bumper bar is likely to detach partially or completely from the vehicle when in use. A bumper bar secured by wire or other temporary means is regarded as insecure and must be rejected• Bumpers bars which have jagged edges, cracks, splits or projections, which may cause injury to persons near the vehicle. Paint miss match or fading which is significantly different to that of the rest of the paintwork

Section 10

Exhaust System

Method of Inspection	Reason for Rejection
<ul style="list-style-type: none">• Where applicable, check for presence, security and adequacy of grease shields to hot exhausts	<ul style="list-style-type: none">• A heat shield is missing, insecure or inadequate

Section 11

Fuel System - Pipe and Tanks

Method of Inspection	Reason for Rejection
<ul style="list-style-type: none">• Examine fuel tanks(s) for security and leaks• Check that fuel tank filler caps are:<ul style="list-style-type: none">• Present• Of the correct type• Secure and seated properly to ensure correct function of sealing• Examine pipes to see they are securely clipped down to prevent damage by chaffing and cracking, and are not in a position there they will be fouled by moving parts• Check that no fuel pipe runs immediately adjacent to or in direct contact with electrical wiring or the exhaust system	<ul style="list-style-type: none">• Fuel tank is insecure• A filler cap missing or unsuitable or in such condition that it would not prevent fuel leaking or spilling <p>Please Note: temporary/emergency fuel caps are not permitted</p> <ul style="list-style-type: none">• Damaged, chafed, insecure pipes, or pipes so positioned that there is a danger of them fouling moving parts• A fuel pipe immediately to or in direct contact with electrical wiring or exhaust system

Section 12

Drivers View of the Road

Method of Inspection	Reason for Rejection
<p>The number and position of all obligatory mirrors must be checked:</p> <ul style="list-style-type: none">• Check the condition of each mirror reflecting surface and whether a person sitting in the drivers seat can see clearly to the rear <p>For all air operated wipers examine:</p> <ul style="list-style-type: none">• The condition of any visible piping• The function of the operating mechanism, and• The function of necessary valves to protect the braking system <p>Please Note: Equipment or objects not originally fitted to the vehicle as part of the original design must not obstruct the designed forward view of the driver. In particular, objects such as (but not restricted to) pennants, cab decorations and external stone guards/visors should not interrupt the view through the swept area by the windscreen wipers.</p>	<p>A defective additional external mirror is not reason for rejection</p> <ul style="list-style-type: none">• A mirror reflecting surface deteriorated or broken• In such a position that a person sitting in the drivers seat cannot see clearly to the rear <p>For all air operates wipers examine:</p> <ul style="list-style-type: none">• Pipes inadequately clipped or supported• Incorrect function of the wipers or leaking components• Incorrect operation of protection valves

Section 13

Window Glass & Other Transparent Material

Method of Inspection	Reason for Rejection
<ul style="list-style-type: none">• Visually check the condition of all windscreens, internal screens, partitions, side, rear roof and door windows for cracks, surface damage and discolouration• Check presence and security of all windscreens, side, roof or rear windows, or internal doors or partitions• Check for evidence of obvious leaks from all windscreens and side, rear, roof or door windows• Check for presence, security and condition of guard rails or barrier at windows, internal screen or partitions	<ul style="list-style-type: none">• A crack, surface damage or discolouration in glass or other transparent material that:<ol style="list-style-type: none">1. Impairs the driver's front, side, or rear view of the road, or;2. Presents a danger to any person in the vehicle• A windscreen or any other outside window missing, or any windscreen, window, internal screen or partition insecure• Any external window or windscreen is obviously leaking• A guard rail or barrier at a window, internal screen or partition missing, insecure or damaged

Section 14

Tricycles & Quadricycles

BMBC does not licence this method of transport

Section 15
Additional Requirements

15.1 Speedometer

Method of Inspection	Reason for Rejection
<ul style="list-style-type: none"> • Check that a speedometer is fitted • Check the condition of the speedometer • Check that the speedometer can be illuminated 	<ul style="list-style-type: none"> • Speedometer is not fitted • Speedometer not complete or clearly inoperative, or dial glass broken or missing • Speedometer cannot be illuminated

15.2 Transmissions

Method of Inspection	Reason for Rejection
<p>Examine transmission check for:</p> <ul style="list-style-type: none"> • Missing or loose flange bolts • Cracked or insecure flanges • Wear in shaft and/or wheel bearings • Security of bearing housings • Cracks or fractures in bearing housing • Wear in universal joints • Deterioration of flexible couplings • Distorted, damaged shafts • Deterioration of bearing housing flexible mountings • Clearance between transmission shafts and adjacent components 	<ul style="list-style-type: none"> • A loose or missing flange bolts(s) • A flange cracked, or loose on the transmission • Excessive wear in shaft bearing • A bearing housing insecure to its fixing • A cracked or fractured bearing housing • Excessive wear in a universal joint • Deterioration of a transmission shaft flexible coupling • A damaged, cracked or bent shaft • Deterioration of a flexible mounting of a bearing housing • Evidence of fouling between any transmission shaft and an adjacent component

15.3 Transmission – Front Wheel Drive

Method of Inspection	Reason for Rejection
<p>Check the drive shaft inner and outer universal joint couplings and constant velocity joints for:</p> <ul style="list-style-type: none"> • Wear and security • Damage to flexible rubber or fabric universal joints 	<ul style="list-style-type: none"> • Drive shaft constant velocity or universal joint coupling worn or insecure • A flexible rubber or fabric universal coupling unit damaged by severe cracking or breaking up

<ul style="list-style-type: none"> • Security and oil contamination of flexible rubber or fabric universal joints • Condition, presence and security of constant velocity joint gaiters 	<ul style="list-style-type: none"> • A flexible rubber or fabric universal coupling unit excessively softened by oil contamination or insecure • A drive shaft constant velocity joint gaiter split, missing or insecurely mounted
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15.4 Engine & Transmission Mountings

Method of Inspection	Reason for Rejection
<p>Examine the condition of:</p> <ul style="list-style-type: none"> • Mountings • Sub-frames <p>The security to chassis and check for:</p> <ul style="list-style-type: none"> • Fractures • Looseness • Deterioration 	<p>Any mountings or sub-frame:</p> <ul style="list-style-type: none"> • Loose • Fractured • Deteriorated • Inappropriate

15.5 Oil & Water Leaks

Method of Inspection	Reason for Rejection
<ul style="list-style-type: none"> • Check vehicle for oil and water leaks from any assembly or component to the ground • And/or which could be deposited on surrounding bodywork or onto the exhaust system <p>Please note: If necessary, the engine can be run idle speed to confirm the existence</p>	<ul style="list-style-type: none"> • An oil and water leak, from any assembly which deposits fluids underneath the vehicle whilst stationary • Leaks which, when the vehicle is moving, could be deposited upon the surrounding bodywork, exhaust and brake system so that it would: <ol style="list-style-type: none"> 1. Contaminate areas 2. Could potentially cause a health, safety or fire risk

15.6 Luggage/Load Space

Method of Inspection	Reason for Rejection
<p>Physical separation is not so much an issue as is the safety of passengers in the event of an accident. The luggage should therefore be secure and prevented from becoming dislodged in an accident in such a manner as may cause injury. Such security can be by means of a sheet or net, which could be anchored to the floor of the luggage area. Clearly if the luggage</p>	<ul style="list-style-type: none"> • Load restraint system, if required, not present at time of test • Load restraint system faulty or unserviceable

<p>compartment is not physically separated from the passenger compartment then care will need to be taken so as not to carry any hazardous items such as fuel cans, detergents or other loose items that could leak if they become damaged.</p>	
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15.7 Trailers and Towbars

Method of Inspection	Reason for Rejection
<p>Trailers:</p> <ul style="list-style-type: none"> Trailer must be presented for test with the vehicle that will be authorised to tow it. The trailer must display the appropriate registration plate and licence plate <p>Please Note: Trailers presented for inspection should be built by an approved or recognised trailer of manufacturer</p> <p>An example of a typical trailer inspection sheet can be found at Appendix A.</p> <p>Towbars:</p> <ul style="list-style-type: none"> Where Towbars are fitted checks must be made on the condition and security to the towing vehicle 	<ul style="list-style-type: none"> Rejections as indicated on the trailer inspection sheet shown at Appendix A Rejections as indicated on the trailer inspection sheet as shown at Appendix A

15.8 Plates, Stickers, Signs & Advertisements

Method of Inspection	Reason for Rejection
<p>Vehicles current licensed for Private Hire work:</p> <ul style="list-style-type: none"> Barnsley Council issued front plate securely fitted to the front of the vehicle. Internal plate shall be affixed to the interior of the vehicle as to be clearly visible and rear licence plate shall be securely fitted to the exterior rear of the vehicle and clearly visible and in a clean condition 	<ul style="list-style-type: none"> A Barnsley Council issued front, internal or rear plate is not displayed or is in a clearly visible and clean condition

<p>Vehicles currently licensed for Hackney Carriage work:</p> <ul style="list-style-type: none"> Barnsley Council issued internal plate shall be affixed to the interior of the vehicle as to be clearly visible and rear plate securely fitted to the exterior rear of the vehicle and be clearly visible and in a clean condition 	<ul style="list-style-type: none"> Barnsley Council issued internal or rear plate not displayed or in a clearly visible and clean condition
<p>Advertisements (Private Hire and Hackney Carriage)</p> <ul style="list-style-type: none"> Advertising signs (other than the company name/contact number) are not permitted without written dispensation from the Senior Licensing Officer 	<ul style="list-style-type: none"> Advertisements are present on the vehicle without written dispensation from the Senior Licensing Officer

15.9 Taxi Meters

This section only applies to hackney carriage vehicles and private hire vehicles fitted with a meter

Method of Inspection	Reason for Rejection
<ul style="list-style-type: none"> All hackney carriage vehicles must be fitted with a meter than can be easily and clearly seen and read by passengers A tariff card must be displayed where it can be easily and clearly seen and read by passengers The meter must not be located behind any fitting, fixture or equipment that obscures it from view. There must be no other means of obscuring the meter from sight 	<ul style="list-style-type: none"> There is no meter fitted in a hackney carriage vehicle, or the meter cannot be clearly seen from the rear of the vehicle There is no tariff card, the tariff card is in such a poor condition that it cannot be read, or the tariff card cannot be easily seen by passengers The meter can be obscured from view by any mechanism, door, cover, panel or any other means present

Section 16

Ancillary Equipment

Method of Inspection	Reason for Rejection
<p>Wheelchair Restraint</p> <ul style="list-style-type: none"> • Where applicable, check the condition and operation of wheelchair restraints • A system for the effective anchoring of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces <p>Wheelchair Access & Equipment A vehicle shall be fitted with either of the following forms of wheelchair access equipment:</p> <p>Ramps:</p> <ul style="list-style-type: none"> • Check that appropriate ramps fitted are securely installed in designated storage area. Examine for damage, deformity, sharp edges etc. and provision of anti-slip covering <p>Wheelchair Lift:</p> <ul style="list-style-type: none"> • A purpose designated wheelchair lift shall conform to the LOLER 98 Regulations. A report, confirming that the lifting equipment is safe to use, shall be presented for inspection with a wheelchair lift will require a LOLER certificate that is valid for a period of six months from the date of issue <p>Please Note: Passenger lifting equipment will need to be thoroughly examined by a competent person, in use, at least once every six months.</p> <ul style="list-style-type: none"> • Any purpose designed wheelchair access ramp that is carried must be lightweight and easy to deploy. The installed ramp shall have visible reference to safe working load of 250kgs and certified to BS 6109 • Wheelchair access equipment shall be fitted either into the rear or side access door of the vehicle. Where it is fitted to a side door 	<ul style="list-style-type: none"> • A wheelchair restraint is defective, worn or missing • Wheelchair anchorage systems and devices do not conform to European Directive 76/115 EEC (as amended by 90/629 EEC). See Appendix B • Ramps missing, insecurely stored, damaged/deformed, not anti-slip • Vehicle not presented with a valid or current LOLER certificate • The installed ramp does not have any visible reference to a maximum safe working load or certification to BS 6109

<p>this shall be the door situated on the near side of the vehicle, i.e. kerbside when stopped in a normal road</p> <ul style="list-style-type: none"> • The aperture of the door into which the access equipment is fitted shall have minimum clear headroom in its central third of 48 inches (1,220mm). The measurement shall be taken from the upper centre of the aperture to a point directly below on either, the upper face of the fully raised lift platform, or the upper face of the ramp fully deployed on level ground • A locking mechanism shall be fitted that holds the access door in the open position whilst in use • All wheelchair tracking must be fit for purpose and structurally sound <p>Please Note: Further information of disabled people’s transport is available from Disabled Person’s Transport Advisory Committee (DPTAC) website: www.dptac.gov.uk</p>	<ul style="list-style-type: none"> • Wheelchair access equipment is fitted to the off-side access door of the vehicle • There is not a clear headroom in the aperture within the central third of 48 inches (1,220mm) • No evidence of a suitable locking mechanism to hold the door open • Damage or insecure tracking or deposits within the tracking rails
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Section 17

Novelty Vehicles

Seating Capacity

Method of Inspection	Reason for Rejection
It is strongly recommended that prior to the inspection of a novelty vehicle the inspector checks the seating capacity of the V5C to ensure it does not exceed 8 passenger seats	If the V5C states that more than 8 passengers, then this vehicle MUST NOT be tested or licensed as a Private Hire Vehicle. The vehicle should be referred to VOSA for licensing as a passenger vehicle (PCV)

Section 17.1

Undue Stress

Method of Inspection	Reason for Rejection
Vehicle inspectors should be aware of undue stresses caused to the steering, brakes and tyres due to the additional weight imposed on the vehicle at the modification process	Tolerance and wear should be as defined in the VOSA Car & Light Commercial Vehicle Testing Manual as follows: <ul style="list-style-type: none">• Steering – Section 3• Brakes – Section 4• Tyres – Section 5

Section 17.2

Passenger Notices

a) Driver Declaration

A written declaration should be made by the operator of a novelty vehicle that side facing seats will never be used to carry passengers under 16 years of age **regardless of whether they vehicle is fitted with or without seatbelts.**

b) Passenger Notices

- In addition, notices forbidding children to be carried in side facing seats must be displayed in prominent positions, i.e. on entry to the passenger compartment and on the inside of the vehicle on either side of the passenger compartment. In addition, local licensing authorities may require outward facing signs adjacent to all entrance/exit doors to the passenger compartment.
- Further notices should be displayed inside the vehicle, where all passengers can clearly read the notice, advising passengers of the maximum carrying capacity of the vehicle and a warning to passengers that should the capacity be exceeded then the vehicle will not be insured.

Hackney Carriage & Private Hire

Trailer Inspection Sheet

Plates Number of Towing Vehicle.....

Registration Number of Towing Vehicle.....

Registered Owner of Vehicle.....

Manufacturers Plate Showing Chassis Number.....

Manufactures Plate Showing Maximum Weight.....

Inspection Area	Description	Pass	Fail
Licence Plate	Contains details & complies with local licensing authorities format		
Licence Plate	Clearly displayed, legible and securely fixed		
Licence Plate	Serviceable – not damaged or defected		
Trailer Couplings	Check condition and operation and presence of a safety breakaway cable		
Tow Bar Mounting Brackets	Check condition and security		
Trailer Body	Check condition of side and rear tail boards		
Trailer Chassis	Check condition		
Suspension	Check condition and operation		
Wheel Bearings	Checks for excessive free play or roughness in bearings		
Tonneau Cover & Fittings	Check for condition		
Wheels & Tyres	Checks security, condition and wear		
Braking System	Operates satisfactory		
Lighting	All obligatory lights work		
Indicators	All indicators work		
Reflective Triangle	Check presence and condition		
Number Plate	Check condition, security of fitting and displayed clearly		
Speed Restriction	Check condition and displayed clearly		

I hereby certify that the above trailer has been inspected and has/has not* been found to be roadworthy and suitable to be used as a hackney carriage/private hire* trailer at the time of inspection.

Examined by (name).....

Signature.....Date.....

*Delete as appropriate

Definition of a Motor Vehicle

Category	Definition
M	A motor vehicle with at least four wheels designed and constructed for the carriage of passengers
M1	Vehicles designed and constructed for the carriage of passengers and comprising of no more than eight seats in addition to the driver's seat
M2	Vehicles designed and constructed for the carriage of passengers and comprising of more than eight seats in addition to the driver's seat having a maximum mass not exceeding five tonnes
M3	Vehicle designed and constructed for the carriage of passengers and comprising of more than eight seats in addition to the driver's seat having a maximum mass exceeding five tonnes

APPENDIX M



BARNSELEY
Metropolitan Borough Council

REGULATORY SERVICES ENFORCEMENT POLICY

Signed: 

Name: Carrie Abbott
Service Director – Public Health and
Regulation

Date: 11 June 2019

1. Enforcement Policy Statement

The purpose of this Policy is to set out the general principles of enforcement to be followed by officers in Regulatory Services, in order to ensure that enforcement decisions are consistent, appropriate, balanced, fair, targeted, accountable, transparent and proportionate.

2. Introduction

Regulatory Services is a public authority for the purposes of the Human Rights Act 1988. Officers in Regulatory Services will apply the principles of the European Convention on Human Rights in accordance with the Act. The Service will follow the provisions of the Regulators' Code in its regulatory activities, taking a supportive, risk-based approach to businesses. It will provide clear information and guidance on compliance and will act with fairness and transparency. Formal enforcement action will normally be a last resort, but where it is deemed appropriate, this Policy will be applied.

This policy sets out the general regulatory options available to Regulatory Services Officers to ensure compliance with relevant legislation. Officers will be suitably trained, qualified and experienced, as set out in their job profiles, and they will be familiar with, and follow, the provisions of this Policy.

Each case is unique and must be judged on its own merits. However, there are general principles that apply in the way each situation must be approached. This document sets out the factors to be taken into account when considering appropriate enforcement action to be taken. Officers will follow this Policy, except in exceptional circumstances.

Where the Service becomes aware of a situation for which it is not the enforcing authority, it will contact the relevant enforcement agency. Where there is a shared role with another enforcement agency, officers shall liaise accordingly with that agency.

Regulatory Services enforce a wide variety of legislation, and use powers that enable officers to issue verbal advice, send letters, serve formal notices, issue simple cautions, and prosecute in the courts. This list is not exhaustive and other enforcement options are available, as detailed later in this document. The officer will choose the most appropriate method of achieving compliance from the range of actions available.

The aims of the Service in taking action are:

- To protect the public and businesses from offenders.
- To change the behaviour of the offender
- To eliminate any financial gain or benefit from non-compliance
- To restore the harm caused by regulatory non-compliance in appropriate cases

3. Enforcement Options

There are a number of options available when legal contraventions are found:

a) No Action

In exceptional circumstances contraventions may not warrant any action. This could be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal action is inappropriate, e.g., the offender is elderly and frail. A decision to take no action must be recorded in writing and must take account of health, safety, environmental and nuisance implications of the contravention. A decision to take no action does not preclude further investigation or review of the case at a later date, or when there is material change in the circumstances.

b) Informal Action

Informal action to secure compliance with the legislation includes offering advice, issuing warnings and requests for action. It may be appropriate to use informal action in the following circumstances:

- The act or omission is not serious enough to warrant formal action.
- From the individual's/organisation's past history it can be reasonably expected that informal action will achieve compliance.
- Where the original approach is from person(s) seeking advice or assistance – although if serious breaches are found, formal action may be appropriate.

When an informal approach is used to secure compliance, this may be verbal or written. Any written documentation sent to individuals or businesses must include:

- All the information necessary to understand what action is required and why.
- The legislation being contravened and measures which will achieve compliance.
- Clear distinction between legal requirements and recommendations.

c) Statutory notices, Seizing Equipment, Closing Premises

Notice can be served to require persons to cease contravening activities, give offenders reasonable time to rectify a contravention or require people to provide information. Notices may require contravening activities to cease immediately where circumstances relating to health, safety, environmental damage, or nuisance demands. In other circumstances, the time allowed must be reasonable, but must also take account of the implications of the contravention.

Specific guidance is available on circumstances under which notices shall be served, equipment seized or premises closed, and this varies according to the legislation and type of notice.

The use of statutory notices may take place in conjunction with other enforcement options set out in this policy.

d) Refusal/ Revocation of Licence/Approval/Permit

Licences, Approvals and Permits are issued under specific legislation and the circumstances that allow refusal or revocation of a licence etc. shall be taken into account in accordance with the specific legislation and relevant Codes of Practice. In order to justify such an action, the applicant/licence/approval/permit holder must meet one or more of the following criteria:

- Engage in fraudulent activity
- Deliberately or persistently breach legal obligations
- Deliberately or persistently ignore warnings or formal notices
- Endanger, to a serious degree, the health, safety or well-being of people, animals or the environment
- Fail to pay renewal fees

In relation to licensing matters, cases may also be referred to the General Licensing SubCommittee.

e) Works in Default

Where provided for under the legislation, work may be carried out in default. Such action will be dependent upon public risk and strategic considerations.

f) Injunctions

In exceptional cases, it may be considered that an injunction is the best course of action to remedy contraventions or dangerous circumstances. For example, where there is an immediate risk to public health, or where there is an extraordinary statutory nuisance.

g) Enterprise Act Actions

The Enterprise Act 2002 gives some officers in the Service the authority to seek civil remedies for certain breaches of legislation. Officers will consider these remedies, such as undertakings and injunctions, where they are the most appropriate course of action.

h) Fixed Penalty Notices

Fixed Penalty notices will be issued under certain legislation. If a fixed penalty is not paid within the prescribed period, legal proceedings shall be instituted.

i) Simple Cautions

In some cases, Simple Cautions may be used as an alternative to prosecution. In order to offer a Simple Caution, there must be enough evidence for the matter to proceed to Court by way of prosecution, and the offender must admit guilt.

j) Prosecution

Without prejudicing the right of the Council to prosecute for any offence within its jurisdiction, prosecution will be considered in the case of serious offences, matters of significant public concern, failure to comply with a statutory notice, and repeated infringements.

Particular circumstances in which prosecution will also be considered include:

- The contravention involved fraud.
- The contravention involved deliberate or persistent breach of legal responsibility.
- The contravention was through gross negligence or carelessness and caused, or was likely to cause, significant loss or prejudice to another individual.
- The contravention led to, or contributed to, the health safety or well-being of people, animals or the environment being seriously compromised, or contributed to damage to the reputation or economic well-being of the Borough.
- The contravention involved the obstruction of an authorised officer in carrying out his or her duties, or violence or aggressive behaviour towards them.
- The contravention was an absolute offence under the legislation.
- The matter relating to the offence is widespread throughout the borough.

Cases will only be submitted for prosecution when it is considered that the sufficiency of evidence and the public interest requirement fall within the guidelines as laid down by the Attorney General and Crown Prosecution Service Code of Crown Prosecutors. Before deciding whether or not to prosecute, consideration will also be given to the following:

- The calibre and reliability of witnesses.
- The probable public benefit of a prosecution and the importance of the case – e.g., the possibility of establishing legal precedent.
- The contravention is trivial

- Whether a Simple Caution would be more appropriate or effective.
- Cost effectiveness – a need to balance likely overall cost against the ‘value’ of the likely outcome.

4. References

The Code for Crown Prosecutors

http://www.cps.gov.uk/publications/code_for_crown_prosecutors/

Regulators Code <https://www.gov.uk/government/publications/regulators-code>

Simple Cautions <https://www.gov.uk/government/publications/simple-cautions-guidance-for-police-andprosecutors>



BARNSLEY

Metropolitan Borough Council

LICENSED DRIVER CODE OF GOOD CONDUCT

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, Barnsley Metropolitan Borough Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements produced by the Council.

1. Responsibility to the Trade

Licence holders shall endeavor to promote the image of the Hackney Carriage and Private Hire trade by:

- (a) Complying with this Code of Good Conduct;
- (b) Complying with all the Conditions of their Licence, Hackney Carriage Byelaws and the Councils Hackney Carriage and Private Hire Licensing Policy;
- (c) Behaving in a civil, orderly, non-discriminatory and responsible manner at all times.

2. Responsibility to Clients

Licence holders shall:

- (a) Maintain their vehicles in a safe and satisfactory condition at all times;
- (b) Keep their vehicles clean and suitable for hire to the public at all times;
- (c) Attend punctually when undertaking pre-booked hiring;
- (d) Assist, where necessary, passengers into and out of vehicles;
- (e) Offer passengers reasonable assistance with luggage and other personal effects;
- (f) When requested provide receipts to passengers.

3. Responsibility to Residents

- 3.1 To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:
- (a) Not sound the vehicle's horn illegally;
 - (b) Keep the volume of radio/cassette player and VHF radios to a minimum;
 - (c) Switch off the engine if required to wait;
 - (d) Take whatever additional action is necessary to avoid disturbance to residents in the neighborhood.
- 3.2 At taxi ranks and other places where hackney carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:
- (a) Rank in an orderly manner and proceed along the rank in order and promptly;
 - (b) Remain in the vehicle.
- 3.3 At private hire offices a licence holder shall:
- (a) Not undertake servicing or repairs of vehicles;
 - (b) Not allow their radio/cassette players or VHF;
 - (c) Take whatever additional action is necessary to avoid disturbance to residents of the neighborhood which might arise from the conduct of their business.

4. General

Drivers shall:

- (a) Pay attention to personal hygiene and dress so as to present a professional image to the public;
- (b) Wear the badge provided by the Council on his person at all times when in charge of a licensed vehicle, such badge to be worn in a position and manner as to be plainly visible;
- (c) Be polite, helpful and fair to passengers;
- (d) Unless otherwise directed by the hirer the driver shall proceed to the destination by the shortest possible route;
- (e) Not without the express consent of the hirer drink or eat in the vehicle;
- (f) Not without the express consent of the hirer play any radio or sound producing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle;
- (g) Drive with care and due consideration for other road users and pedestrians and in particular shall not use a hand held mobile phone whilst driving;

- (h) Obey all Traffic Regulation Orders and directions at all time;
- (i) Not to smoke in the vehicle or to allow fare paying passengers to smoke in the vehicle;
- (j) Not to carry more passengers in a vehicle than it is licensed to carry;
- (k) Not to consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle;
- (l) Not drive while having misused legal or illegal drugs.

PLEASE NOTE:

The Council shall take a very serious view of any driver being found to have had any alcohol or having misused any drugs whilst in charge of a licensed vehicle.

Staying Safe in Taxis

If you need to travel by taxi it is important that you keep yourself safe.

Here is a safety checklist for you to use:

1. Make sure you only travel in a licensed cab. This should either be a "Hackney Carriage" (the London style cabs) or a private hire vehicle. A private hire vehicle can be either a family size car or a people carrier, but it must also have a **licence plate**.
2. An unlicensed cab will not have a licence plate, so **look for this before you get in the vehicle**. The licence plate will also have **Barnsley Council logo** on it.
3. You should **never flag a car down in the street**, you may be getting into an illegal, uninsured vehicle which could be potentially very dangerous. A hackney cab that is for hire will have an illuminated (usually orange) sign on the roof of the vehicle which indicates that it is for hire.
4. If you **pre-book your taxi** and ask for the call back facility, if it is available. When the taxi arrives, always make sure that the vehicle is from the taxi company that you called. It should have **the company's stickers on the doors**. Check the driver is wearing an **identification badge**, there may also be one on display at the front of the vehicle or on the partition between the driver and passengers.
5. When ringing for a taxi make sure **no-one can overhear you give personal details** such as your name and address, because anyone could turn up and pretend to be your driver.
6. Before you go out, make sure you have **put your taxi fare in a safe place** that is separate to the rest of your money. In doing this, you are less likely to spend it, making sure you can get home safely.
7. Make sure you have enough money to pay for your journey. **Ask the driver how much the fare will be before you start the journey** to avoid any difficulty or embarrassment. It is a criminal offence to hire a taxi without the means to pay the fare. The taxi driver is within his / her right to call the police if you are unable to pay the full fare.
8. **Let someone know you are in the vehicle and on your way**. Let them have the taxi licence number and if possible, make sure someone is waiting for you at your destination. The number of the licence will be on display in the vehicle, as well as on the plate on the rear of the vehicle.
9. If you are travelling alone you may **feel safer sitting in the back** of the vehicle on the opposite side of the driver, so that you can see him / her in their mirror.
10. If you chat to the driver, make sure you **don't give out any of your personal details**.
11. **Never share a taxi with a stranger**.
12. If you feel threatened or uncomfortable for any reason, **ask the driver to stop in a busy area, pay your fare and get out of the car**.

13. If you are unhappy with the taxi or private hire service, you can **make a complaint** to the licensed operator or to the Licensing Section at Barnsley Council. You can contact them at **licensing@barnsley.gov.uk**. It would be helpful if you have a note of the license plate or vehicle registration.

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List of important changes to policies and processes :

NB The majority of the proposed changes are the Council's response to Dft Guidance, July 2020 and the recommendations made in relation to statutory minimum standards for taxis and private hire vehicles

- * 6 monthly DBS checks on all drivers
- * Drivers to sign up to DBS update service on either grant or renewal of licence
- * DBS referrals recognised
- * Operators required to have DBS checks on booking and dispatch staff
- * Vehicle proprietors required to undergo a basic DBS check on grant or renewal of licence
- * Addition of a whistle blowers policy
- * New arrangements and protocols for information sharing
- * Requirement for licensees to notify the Council within 48 hours of an arrest, charge or conviction for a specified serious offence
- * Conditions of licence re-written
- * Regular maintenance and safety checks on vehicles by drivers and/or vehicle proprietors
- * Operators requirements for keeping and maintaining records of :
 - a) vehicles and drivers operated
 - b) bookings undertaken
- * New policy for exempting the display of licence plates for certain luxury / executive hire vehicles
- * Proposal to adopt the IOL Guidance on Suitability

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