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NORTH LINCOLNSHIRE COUNCIL

LICENSING (MISCELLANEOUS) SUB- COMMITTEE

21 September 2023

Chairman: Councillor Keith Vickers **Venue:** Room G01e/G02e,
Church Square House

Time: 10.00 am **E-Mail Address:**
sophie.smith@northlincs.gov.uk

AGENDA

1. Substitutions
2. Declarations of Disclosable Pecuniary Interests and Personal or Personal and Prejudicial Interests, and significant contact with Applicants, Objectors or Third Parties (Lobbying), if any.
3. To take the minutes of the meeting held on 20 July 2023 as a correct record and authorise the chairman to sign. (Pages 1 - 4)
4. Any other items that the chairman decides are urgent by reason of special circumstances that must be specified.

The public are likely to be excluded from the meeting for consideration of the following items on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

5. Local Government (Miscellaneous Provisions) Act 1976 - Town Police Clauses Act 1847 - Review of a Hackney Carriage and Private Hire Vehicle Drivers Licence. (Pages 5 – 10)
6. Local Government (Miscellaneous Provisions) Act 1976 - Town Police Clauses Act 1847 - Review of a Private Hire Operators Licence. (Pages 11 – 14)
7. Local Government (Miscellaneous Provisions) Act 1976 - Town Police Clauses Act 1847 - Review of Hackney Carriage and Private Hire Vehicle

Licences. (Pages 15 – 134)

8. Application for a Private Hire Vehicle Drivers Licence. (Pages 135 – 148)

Guidance on Suitability - April 2017. (Pages 149 – 176)

Statutory Taxi and Private Hire Vehicle Standards - July 2020. (Pages 177 – 216)

Taxi Licensing Policy - September 2017. (Pages 217-386)

Public Document Pack Agenda Item 3

NORTH LINCOLNSHIRE COUNCIL

LICENSING (MISCELLANEOUS) SUB-COMMITTEE

20 July 2023

PRESENT: - Councillors K Vickers (Chairman), P Vickers (Vice-Chair), S Armitage, P Clark and H Rayner.

The meeting was held in Rooms G01e and G02e, Church Square House.

1968 **SUBSTITUTIONS** – There were no substitutions at the meeting.

1969 **DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS AND PERSONAL OR PERSONAL AND PREJUDICIAL INTERESTS, AND SIGNIFICANT CONTACT WITH APPLICANTS, OBJECTORS OR THIRD PARTIES (LOBBYING), IF ANY** – The following member declared a Personal Interest –

Member
Councillor S Armitage

Nature of Interest
Personal Licence Holder

No lobbying was declared.

1970 **TO TAKE THE MINUTES OF THE MEETINGS HELD ON 30 MARCH 2023 AS A CORRECT RECORD AND AUTHORISE THE CHAIRMAN TO SIGN – Resolved** – That the minutes of the meeting held on 30 March 2023, having been printed and circulated amongst the members, be taken as read and correctly recorded and be signed by the chairman.

1971 **ANY OTHER ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT BY REASON OF SPECIAL CIRCUMSTANCES THAT MUST BE SPECIFIED – Resolved** – That the public be excluded from the meeting for consideration of the following items (Minutes 1972 and 1973 refer) on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 and 6 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

1972 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A PRIVATE HIRE VEHICLE DRIVERS LICENCE** – The Director: Economy and Environment submitted a report advising members of an application for a Private Hire Vehicle Drivers Licence to be determined by the sub-committee.

The report contained background information on the process for determining such applications, the information to be taken into account and the

LICENSING (MISCELLANEOUS) SUB-COMMITTEE
20 July 2023

circumstances in which the sub-committee could refuse a licence.

The options available to the sub-committee when considering such applications were:

- To grant the licence as applied for with no additional conditions or restrictions other than those normally applied to such licences.
- To grant the licence subject to additional conditions or restrictions.
- To refuse to grant the licence.

Should the sub-committee refuse the licence or impose additional terms, conditions or restrictions then the applicant may appeal to the Magistrates Court within 21 days from the date on which they were notified of the decision.

Should the Magistrates uphold the decision of the council, the applicant had further recourse to the Crown Court.

The procedure for dealing with such applications at meetings of the sub-committee had previously been circulated to members.

The Licensing Authority presented the reason for the application being considered by the sub-committee.

The applicant attended the hearing, accompanied by their representative, who made submissions and responded to questions.

Resolved – That at the hearing on 20 July 2023, the Licensing (Miscellaneous) Sub-Committee, as part of their deliberations, carefully considered the submissions made by the applicant, their representative, and the Licensing Authority, as well as the information contained within the agenda bundle.

The sub-committee considered the number of penalty points issued to the applicants DVLA Driving Licence on 7 October 2021 and gave note to the fact the applicant failed to declare these points to the Licensing Authority. As part of their deliberations, the sub-committee also considered Table 2 and Table 4 of North Lincolnshire Councils Taxi Licensing Policy. However, as a result of the information presented at the hearing, the sub-committee used their discretion to deviate from the policy on this occasion.

Therefore, after careful consideration of all the information presented before it at the hearing, the sub-committee unanimously agreed to grant the application for a Private Hire Vehicle Drivers Licence for a period of one year, as they considered the applicant to be a fit and proper person under section 51 of the Local Government (Miscellaneous Provisions) Act 1976. Should there be no incidents reported to the Licensing Authority during that year, then the applicant would be able to apply for a three-year licence in

LICENSING (MISCELLANEOUS) SUB-COMMITTEE
20 July 2023

accordance with North Lincolnshire Councils Taxi Licensing Policy.

Furthermore, the sub-committee issued the applicant with a formal warning. The standing of a fit and proper person applied to their conduct at all times. They expected a standard of behaviour which provided a positive image of the taxi trade in North Lincolnshire and expected all licence holders to adhere to the conditions attached to their licence and the requirements of North Lincolnshire Councils Taxi Licensing Policy at all times.

1973 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A PRIVATE HIRE VEHICLE DRIVERS LICENCE** – The Director: Economy and Environment submitted a report advising members of an application for a Private Hire Vehicle Drivers Licence to be determined by the sub-committee.

The report contained background information on the process for determining such applications, the information to be taken into account and the circumstances in which the sub-committee could refuse a licence.

The options available to the sub-committee when considering such applications were:

- To grant the licence as applied for with no additional conditions or restrictions other than those normally applied to such licences.
- To grant the licence subject to additional conditions or restrictions.
- To refuse to grant the licence.

Should the sub-committee refuse the licence or impose additional terms, conditions or restrictions then the applicant may appeal to the Magistrates Court within 21 days from the date on which they were notified of the decision.

Should the Magistrates uphold the decision of the council, the applicant had further recourse to the Crown Court.

The procedure for dealing with such applications at meetings of the sub-committee had previously been circulated to members.

The Director: Governance and Communities informed the sub-committee that the applicant was unable to attend the hearing and respectfully requested the members to consider adjourning the hearing to a later date.

Resolved – That as the applicant was unable to attend the hearing, the sub-committee agreed to adjourn consideration of this application to allow another opportunity for the applicant to attend.

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of the Local Government Act 1972.

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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**

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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



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

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

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

Terminology

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

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

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

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

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

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

3. Administering the Licensing Regime

Licensing policies

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

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

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

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

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

Duration of licences

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

Whistleblowing

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

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

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

Consultation at the local level

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

Changing licensing policy and requirements

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

4. Gathering and Sharing Information

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

The Disclosure and Barring Service

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

The Disclosure and Barring Service Update Service

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

Common Law Police Disclosure

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

Licensee self-reporting

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

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

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

Referrals to the Disclosure and Barring Service and the Police

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

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

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

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

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

Working with the Police

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

Sharing licensing information with other licensing authorities

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

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

Multi-agency Safeguarding Hub (MASH)

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

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

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

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

5. Decision Making

Administration of the licensing framework

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

Training decision makers

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

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

The regulatory structure

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

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

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

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

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

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

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

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

Fit and proper test

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

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

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

Criminal convictions and rehabilitation

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

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

6. Driver Licensing

Criminality checks for drivers

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

Safeguarding awareness

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

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

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

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

‘County lines’ exploitation

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

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

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

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

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

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

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

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

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

Language proficiency

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

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

7. Vehicle Licensing

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

Criminality checks for vehicle proprietors

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

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

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

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

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

In-vehicle visual and audio recording – CCTV

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

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

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

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

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

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

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

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

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

Stretched Limousines

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

8. Private Hire Vehicle Operator Licensing

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

Criminality checks for private hire vehicle operators

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

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

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

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

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

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

Booking and dispatch staff

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

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

Record keeping

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

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

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

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

Use of passenger carrying vehicles (PCV) licensed drivers

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

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

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

9. Enforcing the Licensing Regime

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

Joint authorisation of enforcement officers

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

Setting expectations and monitoring

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

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

Suspension and revocation of driver licences

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

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

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

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

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

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

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

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

Annex – Assessment of Previous Convictions

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

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

Crimes resulting in death

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

Exploitation

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

Offences involving violence against the person

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

Possession of a weapon

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

Sexual offences

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

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

Dishonesty

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

Drugs

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

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

Discrimination

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

Motoring convictions

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

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

Drink driving/driving under the influence of drugs

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

Using a hand-held device whilst driving

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

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

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

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

Annex – CCTV Guidance

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

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

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

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

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

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

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

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

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

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

Annex - Staying Safe: Guidance for Passengers

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

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

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

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

When using a private hire vehicle, passengers should always:

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

When using a taxi, passengers should where possible:

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

Licensing Policy

Hackney Carriage and Private Hire

Revised: September 2017

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Executive Summary

North Lincolnshire is an area rich in diversity, heritage and green spaces. The area is made up of the main urban area of Scunthorpe, a number of vibrant market towns and quiet villages.

Our priorities are set to achieve the vision for North Lincolnshire of Aspiring People, Inspiring Places. With this vision in mind, the priorities are:

- **ENABLE** communities to thrive and live active healthy and fulfilled lives
- **SUPPORT** safeguard and protect the vulnerable
- **SHAPE** the area into a more prosperous place to live, work, invest and play
- **COMMISSION** to improve outcomes for individuals and communities
- **TRANSFORM** and refocus, ensuring we remain a dynamic and innovative council

Underpinning our priorities, our values are important and key to delivering services, such as **Accountable**- deliver on the promise we make and take responsibility; **Collaborative**- work together to deliver the right outcomes; and **Transparent**- open and honest in all that we do.

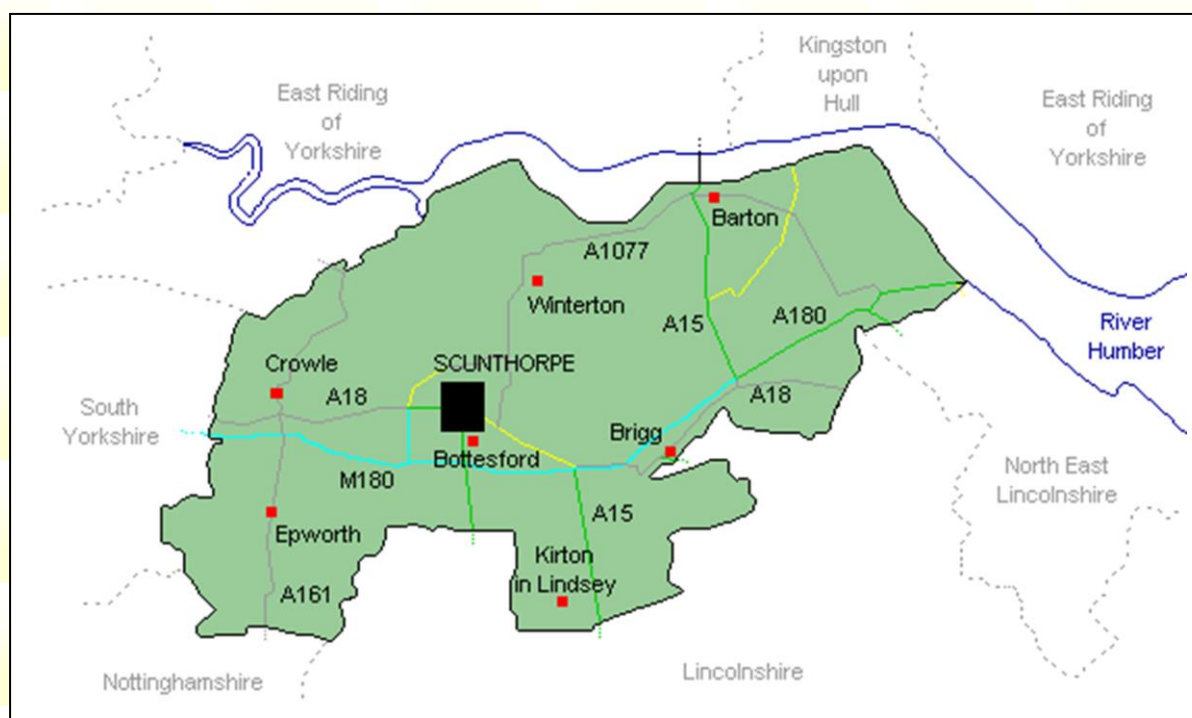
The licensing function is able to support all of the Council's Priorities in some way, although the main area is to safeguard and protect the vulnerable. The licensing function is a statutory service where businesses wishing to trade in regulated activities need an authorisation or a licence. Having said that, the Council wants to see a strong, vibrant economy and as such will support well managed operators, professional drivers and proprietors who provide excellent vehicles. The Licensing Authority will **Engage** with Hackney Carriage and Private Hire businesses and drivers, working in partnership to build and support the licensed trade; **Encourage** drivers, operators and proprietors to adopt and work to "Best Practice" standards; **Educate** businesses and drivers where their standards fall short of what is required and **Enforce** where they seem unable or unwilling to bring themselves to the standard required. The Hackney Carriage and Private Hire trade is capable of delivering much if all parties work together in partnership, openness and integrity.

Section One

Introduction

1 The Area of North Lincolnshire

- (1) North Lincolnshire covers a mix of urban and rural areas. It includes the towns of Scunthorpe, Barton upon Humber and Brigg. There are also several other market towns, villages and rural areas. Its total area is 328 square miles.
- (2) The 2011 Census gave the population of North Lincolnshire as 167,446. Of these, 76,200 live in Scunthorpe and Bottesford. The other 91,246 people live in the rural areas, which include the towns of Barton upon Humber and Brigg.
- (3) Large concentrations of licensable activities are located in Scunthorpe town centre, in the areas of Doncaster Road, the High Street and Frodingham Road.
- (4) Below is a map of the area.



2 General Information

- (1) The primary legislation relating to Hackney Carriage and Private Hire Licensing is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

- (2) The aim of this policy is to ensure the safety and welfare of the population who live and work in North Lincolnshire, while recognising the importance of the businesses to the local economy.
- (3) This policy will provide guidance to the Licensing Authority when considering licence applications for:
 - Hackney Carriage and Private Hire Vehicle Drivers
 - Hackney Carriage Vehicles
 - Private Hire Vehicles
 - Private Hire Operators
- (4) The requirements for each of these types of licence are detailed in **sections 3 to 6**.

3 Licensing Objectives

- (1) There are no licensing objectives set under either the Town Police Clauses Act 1847 or the Local Government (Miscellaneous) Provisions Act 1976. Setting objectives locally enables the Licensing Authority to set out our priorities when dealing with the Hackney Carriage and Private Hire trade. Our objectives are:
 - Ensure that operators, drivers and proprietors act with honesty and integrity;
 - The protection of vulnerable people and children being transported in hackney carriage and private hire vehicles;
 - Ensure the safety of licensed vehicles
- (2) Each of these objectives are equal in importance. In delivering our service we will work with interested parties to promote these objectives in a transparent manner.

4 Consultation

- (1) In determining this Licensing Policy, North Lincolnshire Council has consulted the following persons/bodies:
 - Federation of Small Businesses
 - Disabled Access Groups
 - Training Providers (North Lindsey College & Hull College)
 - Scunthorpe Charter Trustees
 - Town & Parish Councils
 - Trade Associations
 - Licence Holders
 - Taxi Users
- (2) In addition, various other professional persons within North Lincolnshire Council have been consulted. These include:

- Legal Services, including Democratic Services
- Community Safety Partnership
- Town Centre Manager
- Highways
- The Mayor's Office
- Leader of Conservative Group
- Leader of Labour Group
- Chair of Licensing Committee
- Cabinet Member
- Fleet Services

- (3) The views of all the appropriate bodies and organisations have been taken into consideration and weighted appropriately.

5 Review of the Licensing Policy

- (1) The Council will review this policy every five years. At the time of the review all interested parties will again be consulted. In addition to the five yearly reviews, this policy will be subject to continuous evaluation and may be updated at any time.

6 Contacts

- (1) The Licensing Team is currently part of the Operations Directorate. Our address is:

Licensing Team
Church Square House,
PO Box 42,
Scunthorpe,
North Lincolnshire,
DN15 6XQ.

Email: licensing@northlincs.gov.uk

- (2) To ask about any licensing issue, first contact the Licensing Team on (01724) 297750. We have attached a list of useful contacts in **Appendix A**.

Section Two

Licensing Principles, Process and Delegation

7. Introduction

- (1) The council has adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 as amended. Together with the provisions contained in the Town Police Clauses Act 1847, the Council carries out the licensing of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.
- (2) This part of the policy will focus on the principles the Council will follow when dealing with licence applications, reviewing conditions, setting fees and setting the table of fares. It explains the roles and duties of the Licensing Committee and Officers.

8 Equality Act 2010

- (1) In accordance with section 149 of the Equality Act 2010 we have a duty to:
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - foster good relations between persons who share relevant protected characteristics and those who do not.
- (2) The characteristics that are protected in accordance with **paragraph 8(1)** are:
 - age;
 - disability;
 - gender reassignment;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex; and
 - sexual orientation
- (3) These matters will be taken into account when we are making decisions and when dealing with complaints. Further, where an infringement has occurred then we may adopt a more stringent line in dealing with the issue.

- (4) In accordance with s167 of the aforementioned Act, we will maintain a list of accessible vehicles, which will be available to the public.

9 Licensing Principles

- (1) The Licensing Authority aims to provide a clear consistent service to the service user. We will look to balance the needs of the applicant against the need to protect the safety of the public.
- (2) All licence applications will be considered and determined on their own merits.

10 Licensing Committee & Sub Committee

- (1) North Lincolnshire Council's Licensing Committee is made up of between 10 and 15 Members of the Council. The Licensing Committee will deal with policy issues, conditions, fees and fares. The Licensing (Miscellaneous) Sub-Committee is made up of 5 Members who will determine applications and review licences.
- (2) The public must be able to see that the Licensing Committee and Licensing Sub-Committee act in a fair and reasonable manner at all times. Therefore, all members of the Licensing Committee must attend in-house training before they can sit on the Licensing Committee or Sub-Committee. Significant contact with members of the Licensing Committee prior to a hearing by an applicant may result in the said member being unable to determine an application.
- (3) All members of the Licensing Committee are required to undertake Safeguarding and Child Sexual Exploitation (CSE) awareness training before they are permitted to sit on the Committee. Where there is a change to the Committee due to a local election, or a change to the Committee following the annual meeting, then members will be allowed to attend the first meeting to appoint the Chairperson, but will be required to attend the training before they are permitted to sit on the Committee again.
- (4) Members of the Licensing Committee should not hear an application or make a decision on an application where an applicant is known to them. This measure is in the interests of reducing a conflict of interest.
- (5) Members will determine applications for a licence in accordance with guidance, which is provided. The guidance has been approved as part of this policy. The guidance are as follows
 - **New Applications** – Guidance to Members (Applications for Hackney Carriage and Private Hire Vehicle Drivers' Licences)
 - **Review and Renewal of Licences** – Guidance to Members (Review and Application to Renew a Hackney Carriage and/or Private Hire Vehicle Drivers' Licence)

- **Warning Points Appeal** – Guidance to Members (Appeal of Warning Points)
- **Operators Licence** – Guidance to Members (Applications and Reviews of Private Hire Operators Licences)

(6) The guidance documents are based on the Department of Transport Circular 2/92 and the Home Office Circular 13/92. The Guidance can be found at Appendices' B, C, D and E respectively.

11 The Licensing Process & Delegation of Functions

(1) The Council will delegate its licensing function to either the Licensing Committee, Licensing Sub-Committee or to an Authorised Officer of the Council. Delegation will be as follows:

Matter to be dealt with	Full Committee	Sub-Committee	Authorised Officers
Determine Licence Fees	All cases		
Determine Table of Fares	All cases		
Determine objections to fees or table of fares			Licensing Manager in consultation with the Chair of the Licensing Committee
Determination of application for a Hackney Carriage/Private Hire Vehicle Drivers Licence		All cases where there is doubt that the applicant is a fit & proper person	Where the Authorised Officer is satisfied that the applicant is fit and proper.
Revoke a Hackney Carriage/Private Hire Vehicle Drivers Licence following a complaint, conviction, endorsement, etc		All cases	Licensing Manager/ Licensing and Mediation Officer in consultation with Chair of the Licensing Committee if there is an urgent need in order to protect the public
Suspend a Hackney Carriage/Private Hire Vehicle Drivers Licence following a complaint, conviction, endorsement, etc		All other cases	Licensing Manager/ Licensing and Mediation Officer in consultation with Chair of the Licensing Committee if there is an urgent need in order to protect the public or where a Medical Certificate is outstanding
Suspend a Hackney Carriage or Private Hire Vehicle			All cases
Revoke a Hackney Carriage or Private Hire Vehicle licence		All other cases	Licensing Manager/ Licensing and Mediation Officer where the vehicle has been suspended under section 68
Refuse a Hackney Carriage or Private Hire Vehicle licence		All other cases	Licensing Manager/ Licensing and Mediation Officer where the vehicle fails to meet the Council's standard for licensing
Suspend/Refuse or Revoke an operator's licence		All cases	
Setting Local Knowledge Test and Study Guide			Licensing Manager
Determination of			All cases

Advertising			
Determination of a s75 application and withdrawal of authorisation			All cases
Attach Warning Points to Hackney Carriage and Private Hire Drivers, Operators and Vehicle Licences		In accordance with Schedule 1 of Appendix G	In accordance with Schedule 1 of Appendix G
Consider an application to appeal Warning Points based on the criteria in paragraph 149			All cases
Consider an appeal against Warning Points attached to Hackney Carriage and Private Hire Drivers, Operators and Vehicle Licences		Chairman or Vice Chairman of the Licensing Committee; or the Sub-committee where a review is necessary at the same time	
Issue a section 58 notice			All cases
Amending the Hackney Carriage and Private Hire Test and Inspection Manual			Licensing Manager in consultation with the Council's MoT Testing Station Manager
Review and determination of procedures used at a Committee Hearing			Licensing Manager in consultation with Legal Services, Democratic Services and the Chair of the Licensing Committee

- (2) Where an application is referred to the Licensing Sub-Committee, it will be determined on its own merits. Members of the Committee will take into consideration the information contained in the report, and hear the representations of the applicant.

12 Committee Decisions

- (1) Following the determination of an application by the Licensing Sub-Committee the applicant will receive a copy of the decision in writing. This written decision will be delivered as soon as possible after the decision has been made, or in any case within 7 days of the hearing. This will include information on the right of appeal where appropriate.
- (2) Members will follow the guidance as detailed in this policy when making decisions. Where they deviate from the guidance they will provide written reasons for doing so.

13 Officer Decisions

- (1) Where a decision has been made by an Officer under delegated powers, a decision record is prepared and published. Decisions are made in accordance with the scheme of delegation at **paragraph 11**. When determining applications, Officers will follow this policy and other standards set by the Licensing Authority.

14 Appeals

- (1) Parties aggrieved by a decision of the Licensing Authority have a right of appeal. This should be lodged with the Magistrates Court within 21 days of the notification of a decision. Where there is an element of doubt, then the matter will be referred to the Licensing Sub-Committee.

15 Working in Partnership

- (1) The Council aim to work in partnership when dealing with hackney carriage and private hire licensing issues. Such partnerships will include Humberside Police, Safer Neighbourhoods, Training Providers and the licence holders.

16 Licensing Forum

- (1) A Licensing Forum will be held with representatives from the hackney carriage and private hire trade every three months. This meeting will normally be chaired by the chairperson of the Council's Licensing Committee. Representatives will be invited from other organisations to assist in the consultation process.

17 Methods of Communication

- (1) In addition to the consultation process mentioned in **paragraph 16**, we communicate with the licensed trade about various issues, including sending reminders out when a licence is due to expire. Our primary method of communication is via email unless there are reasons why this cannot be accommodated.
- (2) Sending letters by post will primarily be used for serving notices and warnings.

Section Three

Hackney Carriage and Private Hire Vehicle Drivers

18 Summary

- (1) Any person who drives a hackney carriage vehicle must hold the appropriate vehicle drivers licence. Hackney carriage vehicle drivers' licences are issued in accordance with section 46 of the Town Police Clauses Act 1847.
- (2) Any person who drives a private hire vehicle must hold the appropriate vehicle drivers licence. Private hire vehicle drivers licences are issued in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976.
- (3) A person can apply for a licence to drive either a hackney carriage or private hire vehicle or they can apply for both types of licence.

19 Fit and Proper Person

- (1) Licensed drivers will be required to convey vulnerable adults and/or children in their vehicles. The Council will not licence anyone to drive a hackney carriage or private hire vehicle unless it is satisfied that they are a "fit and proper" person. In considering the fit and proper test, applicants will be required to satisfy the application process outlined in **paragraph 20**.
- (2) When licensing drivers of licensed vehicles, we will consider matters that support the following two licensing objectives:
 - Ensure that operators, drivers and proprietors act with honesty and integrity;
 - The protection of vulnerable people and children being transported in hackney carriage and private hire vehicles;
- (3) With an application, the onus is on the applicant to prove that they are a fit and proper person and we cannot issue a licence unless we are satisfied.

20 Application Process

- (1) Licences are issued on a three yearly basis (subject to the provisions contained in **paragraph 36** and all applicants are required to undertake and produce or prove the following:
 - Application form
 - Enhanced Disclosure and Barring Service (DBS) Check
 - Local Knowledge Test

- DVLA or other appropriate licence, which must have been held for not less than 12 months
- DVLA Check Code
- Taxi Driver Standards Test (where appropriate)
- One passport size colour photograph (endorsed).
- Medical Certificate obtained from the applicants own GP or in consultation with their medical history.
- Certificate of Good Conduct (where appropriate)
- Right to Work (where appropriate)
- Safeguarding and Child Sexual Exploitation (CSE) Awareness Training
- English Language (can converse and read and write)
- Licence Fee

- (2) An application for a hackney carriage or private hire vehicle drivers' licence can be made online. Where such an application is made, the applicant will still need to meet the criteria detailed in **paragraph 18(1)**.

21 Application Process (School Contract and Ambulance Drivers)

- (1) Where an applicant is applying for a private hire vehicle drivers licence solely for carrying children on a school contract and the said contract is predominately outside the controlled district of North Lincolnshire, then the Licensing Manager may remit the requirement to pass a knowledge test.
- (2) Where such an applicant's primary role is driving an ambulance contracted to carry children to and from an educational institution, then the Licensing Manager may remit some elements contained within **paragraph 20(1)**, providing that the applicant can satisfy the fit and proper test.
- (3) Where either **paragraph 21(1) or (2)** apply, a condition will be added to the private hire vehicle drivers licence restricting the use.

22 Application Form

- (1) The application form must be completed. If any part of the application form is not complete, the applicant will be required to provide all the required information before the application can proceed.
- (2) Applicants are advised to download the application form from our website to ensure that it is up to date. If an applicant completes an old application form then we will ask for a new form to be completed before we start processing the application.
- (3) The application form, medical certificate and photograph should be submitted at the same time, along with the applicant's original DVLA or other appropriate driving licence and the check code. If any of these

items are missing, the application may be delayed. A DBS check will be requested on receipt of the application form.

- (4) Guidance on the application process is provided for applicants. Although this guidance is available in languages other than English, it is essential that applicants are able to converse in English.
- (5) Where an applicant is found to have provided false information or knowingly omitted to declare information, the application shall be referred to the Licensing (Miscellaneous) Sub-Committee, who will determine the application.

23 Disclosure and Barring (DBS) Check

- (1) All persons applying to drive a hackney carriage or private hire vehicle will be required to have a DBS check on initial application and on renewal thereafter. Further checks may be carried out if we have reason to believe that a person has been convicted of an offence since they were last licensed. These checks will be carried out at the expense of the licence holder.
- (2) On return of the DBS certificate, where convictions have been disclosed, an assessment panel will be held. This panel will consider the conviction(s) and should it be deemed relevant, then the application will be referred to the Licensing (Miscellaneous) Sub-Committee for consideration.
- (3) All new applicants for a licence will be required to have an interview while the DBS form is completed. During the interview, documentation will be checked to prove the identity of the applicant and checks will be made at this time to ensure that the documents provided are authentic.
- (4) Where an applicant is barred from working with either vulnerable adults or children, then they will be referred to the Licensing (Miscellaneous) Sub-Committee. The Committee will determine if the person is “fit and proper” in the case of new applicants or will consider matters under “any other reasonable cause” for renewals. Such determinations shall be made in accordance with the Guidance for Members for new applications at Appendix B of this policy and the Guidance for Members for renewals at Appendix C.
- (5) The information provided on a DBS certificate will only be used for the purpose of determining an application. We will not share this information with any other person or body who does not need to see it. Further, we will only retain the information for as long as is necessary to make a decision, including any appeal.

24 Knowledge Test

- (1) Applicants for a hackney carriage and private hire vehicle drivers' licence will be required to sit a knowledge test. The test will cover local routes, legislation and road craft. The questions in the knowledge test will be derived from the study guide, which is available from our website. There are four parts to the knowledge test, which are:
 - Part A (Local Routes);
 - Part B (Hackney Carriage Legislation);
 - Part C (Road Craft); and
 - Part D (Private Hire Legislation).
- (2) Applicants for a hackney carriage vehicle drivers' licence will be required to sit and pass Parts A, B and C, and attain an 80% pass in Part A; 90% in Part B; and 80% in Part C. Where an applicant passes either Part A, B or C, they will not be expected to re-take that part again should they fail another part of the test.
- (3) Applicants for a private hire vehicle drivers' licence will be required to sit and pass Parts C and D, and attain an 80% pass in Part C; and 90% in Part D. Where an applicant passes either Part C or D, they will not be expected to re-take that part again should they fail the other part of the test.
- (4) Parts A and C shall consist of 20 questions while Parts B and D shall consist of 10 questions. Applicants wishing to apply for both types of licence shall be required to complete all parts of the knowledge test.
- (5) Normal examination conditions will apply during the knowledge test. Any person found to be using unfair means during the test will be excluded from the said test and will be required to take a fresh test and pay the appropriate fee.
- (6) Should an applicant wish for us to provide them with a copy of the study guide, we will do so at a cost of £29.50 (as at the point this policy is published) to cover administration. This fee will be reviewed with the other fees, and may increase without the revised fee being included in this policy. Applicants can still download the study guide from our website at www.northlincs.gov.uk.
- (7) Applicants may take the test more than once. Where an applicant fails to pass the test within seven attempts, there will be an expectation that the applicant should have a break from attempting the test for a period of three months. Should there be mitigating circumstances as to why a person has been unable to pass the test, then the Licensing Manager may permit the applicant to sit further attempts.

25 DVLA and Other Relevant Driving Licences

- (1) A person applying for a hackney carriage or private hire vehicle drivers' licence must have held a DVLA or other relevant driving licence for at least 12 months. In addition to this requirement, a Taxi Driver Standards Test will be required for certain drivers in accordance with **paragraph 26**.
- (2) Applicants will be required to produce the original of their DVLA driving licence. Copies will not be accepted.
- (3) Applicants will be required to produce a DVLA drivers licence check code. This may be obtained from www.gov.uk. Applicants should ensure that the code has not been used and is presented in a timely manner.
- (4) Where an applicant holds an EU driving licence, this will be treated the same as a DVLA licence. Having said that, where a person has been resident in the UK for more than 12 months they must hold a DVLA licence therefore we would not accept an EU licence if they have been resident in excess of that time.

26 Taxi Driver Standards Test

- (1) Statistically young and new drivers are more likely to be involved in accidents than experienced drivers. The minimum requirement for a person to hold a hackney carriage or a private hire vehicle drivers licence is that they must have held a DVLA, or other appropriate driving licence for at least 12 months.
- (2) Where an applicant has not held their DVLA Licence for a period of more than five years we will require the driver to pass our Taxi Driver Standards Test before we will grant a licence.
- (3) Where a new applicant has six or more points on their DVLA driving licence; or has been banned from driving in the last three years for totting up; or five years for serious road traffic offences (as defined in this policy), they will be required to undertake the Taxi Driver Standards Test before we will grant a licence.
- (4) Where a licensed hackney carriage or private hire vehicle driver is convicted of a driving offence, has been issued with a Fixed Penalty or, in the opinion of a Police Constable or Authorised Officer, has driven or parked in a dangerous manner, the person's licence may be reviewed by the Licensing (Miscellaneous) Sub-Committee, who may require the said person to undertake and pass a driving test within a set time, as specified by the Committee. The Licensing (Miscellaneous) Sub-Committee may determine that the licence is suspended until such a test has been taken and passed.

- (5) A copy of the Taxi Driver Standards Test criteria is attached as **Appendix F**.

27 Identity

- (1) An applicant for a hackney carriage or private hire vehicle drivers' licence must provide one passport photograph. The photograph shall be endorsed by a person of professional standing to the effect that the photograph is a true likeness of the applicant. This should be dated and signed. The person of professional standing must have known the applicant for at least three years. The list of persons who are classed as professional is available at www.gov.uk.
- (2) The person of professional standing shall not include a relative of the applicant or a prospective employer or another hackney carriage or private hire vehicle driver, proprietor or operator, or a Member or Officer of the Council.
- (3) Photographs other than standard passport photographs will not be accepted.
- (4) The applicant should not wear headwear (other than for religious purposes), dark glasses or other items, which cover the head or face and should be taken with a cream or light grey background.

28 Medical Requirements

- (1) All applicants for a hackney carriage or private hire vehicle drivers' licence are required to undertake a medical examination. This medical examination should be carried out by the applicant's registered General Practitioner (GP) or in consultation with the applicant's medical history.
- (2) Medical certificates shall be produced on initial application and then every five years up to the age of 65, and yearly for persons over 65 years of age. Where a person suffers from a medical disorder, then the period between medicals may differ.
- (3) Should an Authorised Officer have reason to believe that a licensed hackney carriage or private hire vehicle driver has a medical condition which renders them unfit to drive, a further medical examination will be requested. This medical examination should again be carried out by the driver's GP or a GP who has access to their medical history. If it is deemed necessary to do so, the licence may be suspended in the interests of protecting the public until the further medical examination has been carried out.
- (4) In addition to the Medical Certificate provided, there may be occasions where we may seek clarification from a person's consultant where a person has a specific medical condition or is seeking an exemption.

29 Certificate of Good Conduct

- (1) Persons who have been resident outside the United Kingdom will be required to produce a Certificate of Good Conduct or equivalent document issued by the relevant Embassy or High Commission. The Council may contact the relevant Embassy or appropriate body to verify any documents provided.
- (2) There are certain times that a person may have lived outside the United Kingdom where we would not ask for a Certificate of Good Conduct. These times are as follows:
 - Lived outside the United Kingdom as a member of Her Majesty's Armed Forces, subject to British Law; or
 - Moved to the United Kingdom before the age of 10 years old; or
 - Entered the United Kingdom as an asylum seeker and cannot return to their country of origin for fear of reprisal
- (3) Where a person has been resident outside the United Kingdom as per **paragraph 29(2)**, then we would expect them to produce evidence. Where they cannot provide evidence then we would normally still require a Certificate of Good Conduct. Acceptable evidence would include the following:
 - Discharge Certificate from HM Armed Forces
 - Immigration Documentation
 - Asylum Documentation
- (4) Where a person has lived in the European Union (EU) we would expect them to produce a European Criminal Records Information Systems Check (ECRIS) or similar, unless they have lived there as per **paragraph 29(2)**, which has been evidenced as per **paragraph 29(3)**.
- (5) It is the applicant's responsibility to provide this information. The application will not proceed until such time that it has been provided.

30 Right to Work

- (1) Before we will issue a licence we must be satisfied that a person has the right to live and work in the United Kingdom. We will not issue a licence to expire beyond the time that a person is entitled to work in the country and will have due regard to the Immigration Act 2016.

31 Safeguarding and CSE Awareness

- (1) Before issuing a licence, applicants will be required to attend and pass the Safeguarding and CSE Awareness Training. The core of the training will focus on these areas, however we reserve the right to add other subject matters that are deemed appropriate to support our licensing objectives.

32 Criminal History

- (1) Due to the nature of the occupation, hackney carriage and private hire vehicle drivers are an exempt occupation under the provisions of the Rehabilitation of Offenders Act 1974. As a result, convictions disclosed following a DBS check as referred to in **paragraph 23**, or other information provided in accordance with **paragraph 29** are deemed never to be spent. When considering convictions and endorsements, the Council will only take into consideration such convictions that are deemed to be relevant.
- (2) A criminal record does not automatically bar an applicant from holding a hackney carriage or private hire vehicle drivers licence. The Council has adopted guidance for members relating to a person's criminal history. This guidance is detailed in **paragraph 10(5)** and can be found at **Appendix B, C, D and E**.
- (3) Where non-conviction information is provided on a DBS certificate, we will consider if it is relevant for the purpose of determining if a person is "fit and proper". Should the information provided be deemed relevant, then it will be considered in accordance with **Schedule 1 of Appendix G** as if the date of complaint were the date of conviction. Each case shall be determined on its own merits.

33 English Speaking

- (1) Applicants for hackney carriage and private hire vehicle drivers' licences must be able to converse in English. Drivers may potentially be carrying vulnerable adults and children and it is important that language should not be a barrier to communication.
- (2) Applicants for a hackney carriage and private hire vehicle drivers must be able to demonstrate that they are able to read and write in English. This demonstration may be in the way of producing a qualification such as an English GCSE or AS Level Certificate or by attending an English language training course that is approved by the Council. Other Certificates may be accepted at the discretion of the Authorised Officer.

34 Qualifications

- (1) The Council recognises and supports training and qualifications for licensed hackney carriage and private hire vehicle drivers. It is considered important for licensed drivers to hold the BTEC in Transporting Passengers by Taxi and Private Hire and the NVQ in Road Passenger Vehicle Driving, however the Council will not insist that drivers hold qualifications in order to obtain a licence.
- (2) Where a driver has passed an appropriate qualification, we may include such information on a certificate to be displayed in the vehicle

providing that the qualification is produced at the time of the application.

35 Determination of an Application

- (1) Officers have delegated authority to issue a licence where they are satisfied that the person is fit and proper. If the Officer has any doubt about the person, then the applicant will be referred to the Licensing (Miscellaneous) Sub-Committee for their consideration.
- (2) The Officers and the Members of the Licensing (Miscellaneous) Sub-Committee will follow the provisions contained within this policy. There may be times when it is prudent to deviate from this policy. Where this occurs, the full reasons for deviating from the policy will be provided in writing.

36 Period of Licence

- (1) Hackney carriage and private hire vehicle drivers licences are issued for a period up to three years.
- (2) A licence to drive either a hackney carriage or private hire vehicle will not be issued to expire after a person's DVLA Licence or right to work has expired. Where a licence is issued for a lesser period than the three years it would normally be extended to cover the said period once either the DVLA Licence or right to work has been extended.
- (3) Where a person has been declared fit, albeit that they have a diagnosed medical condition which requires regular medicals, then depending on the circumstances the licence might require renewal rather than extending. Each case will be determined on its merits.
- (4) Subject to an appearance before the Licensing (Miscellaneous) Sub-Committee, a licence may be issued for a period lesser than the three years where the Committee consider it reasonable.

37 Notifying Applicants of Licence Expiry

- (1) The onus is on the licence holder to remember that they need to renew their licence. However, we will endeavour to notify licence holders when their licence is due to expire. This notification will normally be made by email where possible.

38 Renewal of Hackney Carriage and Private Hire Vehicle Drivers' Licences

- (1) Where a person holds a hackney carriage or private hire vehicle drivers' licence, they can apply to renew the licence prior to the expiry date.

- (2) Licensed drivers applying to renew their licence are subject to a number of the provisions contained within **paragraphs 20(1)** of this policy.
- Application form
 - Enhanced Disclosure and Barring Service (DBS) Check
 - Statutory Declaration
 - DVLA Licence
 - DVLA Check Code
 - Taxi Driver Standards Test (certain circumstances)
 - One passport size colour photograph
 - Medical Certificate obtained from the applicants own GP or in consultation with their medical history (if it has expired)
 - Certificate of Good Conduct (if the applicant has lived outside the United Kingdom during the current period of the licence)
 - Right to Work (foreign nationals)
 - Safeguarding and Child Sexual Exploitation (CSE) Awareness Training
 - English Language (can converse and read and write)
 - Licence Fee
- (3) Should the licence expire, then the applicant will be required to fulfil the criteria set out in **paragraph 20(1)** of this policy unless an application is made before the said expiry date of the licence. In certain cases, the Licensing Manager, Group Manager or Head of Service will have discretion to consider an application made after the licence has expired as a renewal. Where the licence has expired, applicants must not drive a licensed vehicle until such time that they hold a valid licence.
- (4) Further to the provisions detailed in **paragraph 39(3)**, the Licensing Manager, Group Manager or Head of Service may remit some or all of the criteria set out in **paragraph 20(1)** where exceptional circumstances have resulted in the application being received after it has expired, albeit that they must be satisfied that the applicant is a “fit and proper” person.
- (5) Before granting the renewal of a hackney carriage and/or private hire vehicle drivers licence we must be satisfied that the person is “fit and proper” and may refuse to renew a licence in accordance with section 61 of the Local Government (Miscellaneous) Provisions Act 1976.

39 Renewal of a Licence (Applicants of Previous Good Character)

- (1) Where an application has been submitted to renew a licence before the expiry of the current licence, the applicant is previously of good character, a further licence may be issued before the return of the DBS certificate so long as the following criteria has been satisfied:

- Any convictions or endorsements have been declared in accordance with any requirements; and
 - The applicant is not due to be referred to the Licensing (Miscellaneous) Sub-Committee for any reason; and
 - The applicant has signed up to the DBS update service; and
 - The applicant has signed a Statutory Declaration; and
 - The application has been made at least 10 working days before the expiry of the current licence; and
 - Officers are authorised to issue a licence in accordance with **paragraph 40** of this policy.
- (2) The Licensing Manager, Group Manager and Head of Service shall be authorised to determine who would be considered as a person previously of good character.
- (3) Applicants will be required to declare that there is no additional information on the DBS certificate that might have a material impact on the renewal of the licence.
- (4) Where a licence is issued subject to the return of the DBS certificate, it will be issued for a period of three months and then extended on the return of the certificate. The certificates are returned to the applicant, therefore they must produce the certificate as soon as it returns, or in any case within 10 working days of the date of issue. Failure to produce the document within this period may result in warning points being issued or the applicant being referred to the Licensing (Miscellaneous) Sub-Committee for review.
- (5) On return of the DBS certificate the licence will be extended to expire in accordance with **paragraph 36** of this policy.
- (6) Where a DBS certificate is returned with a conviction or endorsed with information that has an impact on the decision made, then if this would normally have meant that a licence would not have been issued, then the licence may be revoked with immediate effect, forfeited or warning points issued. The Licensing Manager or Head of Service shall have the delegation to determine the most appropriate course of action.

40 Determination of an Application to Renew a Licence

- (1) Officers have delegated authority to issue a licence where they are satisfied that the person is fit and proper. If the Officer has any doubt about the person, then they will be referred to the Licensing (Miscellaneous) Sub-Committee for their consideration, even where the applicant has been presented before the Committee previously.
- (2) The Officers and the Members of the Licensing (Miscellaneous) Sub-Committee will follow the provisions contained within this policy. There may be times when it is prudent to deviate from this policy. Where this

occurs, the full reasons for deviating from the policy will be provided in writing.

41 Review of a Licence

- (1) When reviewing a licence, we are not looking at whether a person is “fit and proper” rather the licence is reviewed under section 61 of the Local Government (Miscellaneous) Provisions Act 1976.
- (2) Under section 61(1) we can review a licence for one of the following reasons:
 - the person has been convicted of an offence of dishonesty, indecency or violence; or
 - has been convicted of an offence under either the Local Government (Miscellaneous) Provisions Act 1976 or the Town Police Clauses Act 1847; or
 - for any other reasonable cause
- (3) Please refer to the Act of 1976 for the actual wording.
- (4) The wording “any other reasonable cause” is very broad. We will review a licence where we have had a complaint that has been substantiated, where the person has amassed 12 or more points on their licence under the Warning Points Scheme, or where they have relevant convictions or endorsements.
- (5) Members will follow the guidance as detailed in this policy when making decisions. Where they deviate from the guidance they will provide written reasons for doing so.

42 Determination of a Review

- (1) Where Officers have a doubt whether a person is fit and proper, the said person will be referred to the Licensing (Miscellaneous) Sub-Committee under section 61 of the Local Government (Miscellaneous) Provisions Act 1976. A review under this section can be because a person has been convicted of a certain type of offence or for any other reasonable cause.
- (2) Where a person has accumulated 12 or more warning points under the warning points scheme they will be referred to the Licensing (Miscellaneous) Sub-Committee for consideration.
- (3) The Officers and the Members of the Licensing (Miscellaneous) Sub-Committee will follow the provisions contained within this policy. There may be times when it is prudent to deviate from this policy. Where this occurs, the full reasons for deviating from the policy will be provided in writing.

43 Complaints and Non-Conviction Information

- (1) Where information is received that a licensed driver has been convicted of a relevant offence or where information is received either by way of complaint or non-conviction information is disclosed by another party, then the information will be considered to determine if it is relevant.
- (2) If the information has been determined as relevant then the appropriate action will be taken. Such action could result in a referral to the Licensing (Miscellaneous) Sub-Committee for a review of the licence or a suspension with immediate effect if it is in the public's interest to do so. Such action shall be in accordance with the table at **paragraph 11** of this policy.
- (3) When considering complaints and non-conviction information under any other reasonable cause, each case shall be considered in accordance with **Schedule 1 of Appendix G** as if the date of complaint were the date of conviction. Each case shall be determined on its own merits.

44 Code of Conduct

- (1) Once licensed, we expect drivers to act in a professional manner. From experience, there are certain types of behaviour that we find unacceptable. The code of conduct does not form a condition attached to a licence however a breach of the code of conduct would be considered under any other reasonable cause. Where the infringement is minor, then warning points may be attached to the person's record in accordance with **Schedule 1 of Appendix G**. A copy of the Code of Conduct can be found at **Appendix H**.

45 Carriage of Assistance Dogs and Wheelchairs

- (1) All drivers are required to carry assistance dogs in their vehicle without any additional charge and to provide reasonable assistance to persons in wheelchairs.
- (2) Drivers are required to allow passengers with assistance dogs to be seated in the vehicle together. It is the passenger's choice as to where they sit in the vehicle.
- (3) Drivers must afford reasonable assistance to passengers who are disabled at no additional cost. As a result, drivers should not turn the meter on until the journey starts and they cannot charge more for loading or unloading the passenger or their goods.

- (4) Where a driver has a medical condition which means that they cannot carry assistance dogs or assist with passengers in wheelchairs, they must provide written confirmation from their consultant and consent which allows us to seek confirmation from the said consultant. Should such evidence be provided, then we may issue a Tactile Medical Exemption, which must be displayed in the vehicle.

46 Dress Code

- (1) Drivers of hackney carriage and private hire vehicles should dress in an appropriate manner. Clothing and footwear should be appropriate for a professional driver and shall be clean and free from damage. North Lincolnshire Council's Dress Code for Licensed Hackney Carriage and Private Hire Drivers is attached as **Appendix I**.

47 Licence Conditions

- (1) Private hire vehicle drivers licences can have conditions attached to them in accordance with the Local Government (Miscellaneous Provisions) Act 1976.
- (2) A copy of the Private Hire Vehicle Drivers Licence conditions is appended to this policy as **Appendix J**.
- (3) The Private Hire Vehicle Drivers licence conditions will be reviewed with this policy on a five yearly basis, thus ensuring that they are reasonable and fit for purpose
- (4) Conditions cannot be attached to hackney carriage vehicle drivers licences.

48 Refunds of Application Fees

- (1) Where an application is unsuccessful, there is a duty to refund the licence fee. When determining the amount to be refunded we will refund all the money paid save where we have costs associated with the application.

49 Data Protection

- (1) We will keep people's personal information secured at all times. The information we hold should be up to date and there is a requirement that applicants and licence holders keep us informed of any changes. We will require this notification to be in writing.
- (2) When sending information out to applicants and licence holders we will normally send this to a person's home address, via email or to a legal representative, unless there is a good reason to send the information to

an alternative address. The Licensing Manager will consider any representations to send information to an alternative address.

- (3) We will only use the information provided for its intended purpose, save where the information may be disclosed for the prevention or detection of crime; use in a legal case or to protect public funds. In such cases we would normally expect a request to be made under the Data Protection Act 1998. Where we hold information and it could be useful to another enforcement authority we may provide information under section 115 of the Crime and Disorder Act 1998, but would only include such information that is proportionate and necessary.
- (4) We will only retain information as long as necessary. As fees are payable on applications, we will retain information for a period of six years after the licence or application has expired or been refused.

50 Working Time Directive

- (1) Where a licensed hackney carriage or private hire vehicle driver also drives a Public Service Vehicle (PSV) or Large Goods Vehicle (LGV), we would expect them to maintain a record of the hours they drive each. Drivers must not exceed the number of permitted hours allowed for a LGV/PSV Vehicle. Such a record must be made available for inspection by the Licensing Authority or such other enforcement authority who might require the information. This requirement is the same irrespective of if the LGV/PSV is driven locally or on private land.

51 Driver Identification for Education/Social Services Contracts etc.

- (1) In accordance with **paragraphs 74 and 109**, hackney carriage and private hire vehicles are required to carry a notice when conducting education/social services contracts. The following criteria will apply with this identification:
 - a. The ID's will be issued to correspond with the information provided by the Council's Transport Team; and
 - b. The ID will include the name of the company who holds the contract; and
 - c. Each ID shall expire on 31 August annually; and
 - d. Only one will be issued to a person. If this is lost then it may be replaced but will contain the same details;
 - e. A change of company is permitted on return of the original ID. No change of company will be permitted if an ID has been lost.
- (2) Replacement ID's will cost the same as a replacement Driver's ID Badge.

Section Four

Hackney Carriage Vehicles

52 Summary

- (1) Hackney carriage vehicles are licensed in accordance with the provisions contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- (2) Commonly known as taxis, hackney carriages can be hailed in the street and may ply for hire on an appointed stand.
- (3) Before we issue a licence, we must be satisfied that the vehicle is fit, safe and comfortable to be used as a licensed hackney carriage. This supports our third licensing objective of ensuring the safety of licensed vehicles.

53 Use of Vehicles

- (1) A person applying for a licence for a hackney carriage vehicle should do so with the intention of using the vehicle in the controlled district of North Lincolnshire. Where the intention is to use a licensed vehicle in another district for private hire, then the applicant should apply to the said district for an appropriate licence.
- (2) Applicants will be required to make a declaration on their application form stating that they intend to use the hackney carriage vehicle within the controlled district of North Lincolnshire. Should evidence be gathered that the vehicle is being used outside the area, then we may review the licence as a breach of this part of the policy.

54 Application Process

- (1) In addition to completing an application form, a person wishing to licence a hackney carriage vehicle will need to submit the following:
 - Certificate of Compliance
 - Mechanical Test Sheet
 - Valid Certificate of Insurance for public hire
 - A Bill of Sale (Initial Application)
 - V5C (Initial Application)
 - Evidence that the vehicle complies with the Euro Emission standard
 - Road Tax
 - Other Documents as necessary
 - Meter Check
 - Licence Fee
 - LOLER Certificate (Where a lift is fitted)

55 Standard of Vehicles to be Licensed

- (1) Vehicles licensed to carry persons for hire and reward must be fit, safe, comfortable and suitable for the purpose for which they are licensed. To ensure that vehicles within the controlled district of North Lincolnshire meet these criteria, the Council has specified that vehicles will be tested and inspected in accordance with the following table.

Age of Vehicle	Test and Inspection Requirements
Under 5 years of Age	Annually
Between 5 years and under 8 years of age	Tested twice per annum (6 monthly intervals)
Over 8 years of age	Tested three time per annum (4 monthly intervals)

- (2) The age of the vehicle will be taken from the date on which the licence will come in to force.

56 Livery

- (1) All hackney carriage vehicles shall be white. The standard livery is required so that vehicles are easily recognisable to members of the public. All new and replacement vehicles must conform to the new livery requirement and all vehicles currently licensed must conform by December 2025.

57 Testing and Inspection of Vehicles

- (1) Vehicles will be tested at the Council's MoT test station. On satisfactory completion of the test, a Certificate of Compliance will be issued. The test includes a number of items in addition to the normal MoT test, which can be found in the Hackney Carriage and Private Hire Vehicle Compliance Testing Standards. The fee for the test will be paid directly to the test station and will not form part of the licence fee.
- (2) The Certificate of Compliance once issued is only valid in conjunction with a valid hackney carriage vehicle licence.
- (3) Once the vehicle has passed the test, it will be inspected by an Authorised Officer to ensure compliance with the licence conditions and visual standards. The inspection will be conducted in accordance with the Hackney Carriage and Private Hire Vehicle Compliance Testing Standards (Part III).
- (4) There is an expectation that vehicles will be presented as they are intended to be used to carry passengers for hire and reward. Where a

vehicle is presented and fails the inspection, a fee may be charged for a re-inspection, save where the defect is minor.

- (5) Vehicles will be tested and inspected in accordance with **paragraph 55** of this policy.
- (6) Once tested, proprietors must ensure that the vehicle is presented for the inspection within 15 working days from the date of the test.
- (7) Further to **paragraph 57(6)**, as we are expecting vehicles to be presented within 15 working days we will likewise ensure that we will inspect vehicles within 15 working days from the date we are notified that an inspection is required.

58 Supplementary Inspections

- (1) Further to the number of tests and inspections detailed in **paragraph 55**, the licence holder will be required to submit a supplementary application with valid insurance and proof that the vehicle has passed the mechanical test. A further inspection will not be carried out at this time.

59 Period of Licence

- (1) A hackney carriage vehicle licence will be issued for a period less than 12 months depending on the individual circumstances relating to the vehicle. Such circumstances will be dependent on the age of the vehicle.

60 European Emission Standards

- (1) In addition to the age requirements detailed in **paragraph 55**, it is considered reasonable for licensed hackney carriage vehicles to meet European Emission Standards.
- (2) All applicants for a hackney carriage vehicle licence will need to ensure that the vehicle they wish to licence complies with the **Euro 5** standard, save for wheelchair accessible vehicles which are currently licensed. Currently licensed wheelchair accessible vehicles may be **Euro 4**. From 31 December 2021 all vehicles, including wheelchair accessible vehicles will be required to meet the **Euro 5** standard at the next test/inspection.
- (3) Technical details of the Euro Emissions Standards are available on request or are available at www.carfueldata.direct.gov.uk.

61 Licensing of Vehicles Over Eight Years of Age

- (1) The Council would not normally licence new vehicles that are over eight years of age as a hackney carriage. However, where a vehicle

over eight years of age is presented for licensing, it will be considered if it is deemed to be in an exceptional condition.

- (2) In defining the exceptional standard for vehicles over eight years of age, the following criteria will be applied:
 - a) the vehicle shall pass North Lincolnshire Council's test and inspection for the Certificate of Compliance at the first attempt and not on re-test, and;
 - b) the vehicle must be free from body work blemishes; and
 - c) all interior and exterior accessories must be in full working order.
- (3) Where a vehicle has failed North Lincolnshire Council's test or inspection for the Certificate of Compliance at the first attempt for a non-mechanical reason, it may still be considered for licensing providing the vehicle meets criteria b) and c).
- (4) As hackney carriage vehicles are carrying members of the public for hire and reward, we have a duty to ensure that they are fit, safe, comfortable and suitable for use.

62 Certificate of Insurance

- (1) An applicant for a vehicle licence is required to produce a valid certificate of insurance. We will not accept a photocopy of a certificate, however we will accept evidence provided directly from an insurance company or broker. It remains the licence holder's or applicant's responsibility to provide this information.
- (2) There may be times when the vehicle being licensed is covered by a fleet policy. In such circumstances we may accept a copy of the certificate rather than the original. In addition, we may ask the proprietor to produce the schedule which shows that the vehicle is covered by the fleet policy.

63 Proof of Tax

- (1) Before issuing a licence, we will need to see that the applicant has taxed the vehicle. Although we will inspect the vehicle without valid tax, we will not conduct a meter test if one is needed.

64 Bill of Sale and Log Book (V5C)

- (1) There is a difference between the registered keeper of the vehicle and the proprietor of the vehicle. Before issuing a licence to a person, we need to be satisfied that they own the vehicle and have the right to licence the vehicle, therefore we require the applicant to produce a Bill of Sale in addition to the vehicle's log book.

- (2) The log book (V5C) is used to determine the age of the vehicle, amongst other things, providing relevant information about the vehicle. This document should be produced as part of the initial application.

65 Meters & Table of Fares

- (1) Hackney carriage vehicles shall be fitted with a meter and display a table of fares. Such meters must be used at all times when the vehicle is hired by a passenger. We have adopted a maximum table of fares, which allows the passenger to negotiate a lower fare. Although the driver is required to use the meter, any fare agreed which is lower than the metered fare is the amount payable. The driver cannot charge more than the fare shown on the meter and may not charge any surcharges for picking passengers up within the controlled district.
- (2) In order to reduce the risk of overcharging, all licensed hackney carriage vehicles shall be fitted and operated with a calendar-controlled meter.

66 Displaying the Table of Fares

- (1) All hackney carriage vehicles shall display two copies of the table of fares. The first copy of the authorised table of fares must be displayed on the dashboard or in the front window of the vehicle so as to be easily visible to passengers, with a second copy of the table of fares on the rear near side passenger window. These table of fares shall include any notice required by the Licensing Authority.
- (2) Where the vehicle licensed is a wheelchair accessible vehicle, which has a built in partition, the proprietor may display the table of fares on the said partition so as to be easily readable by passengers travelling in the rear of the vehicle.

67 Changes to the Table of Fares

- (1) We will only consider changes to the table of fares on an annual basis and then at the written request of the licensed hackney carriage drivers or their representatives. Additional changes to the table of fares, above and beyond any annual change will only be considered where there is a significant increase in costs, albeit that we would expect the person or organisation to provide evidence of this.

68 Roof Signs

- (1) All hackney carriage vehicles shall be fitted with a roof sign. The roof sign shall display the wording "TAXI" or "For Hire" on the front of the sign, the company name or both. The rear of the sign can be used to display the company name or landline telephone number of the business, or the wording "TAXI" or "For Hire". Roof signs shall not be

blank. Where a roof sign does not display the wording "TAXI" or "For Hire", then a screen sign shall be displayed on the near side of the front windscreen.

- (2) The company name should not be in the form of a number, unless this has been approved by the Licensing Authority.
- (3) Roof signs shall show either white or yellow from the front and either red or yellow to the rear when illuminated and the sign shall be displayed with the front of the sign facing the front of the vehicle
- (4) All roof signs shall be a standard size of 457mm (18 inches) wide, by 152mm (6 inches) deep and 112mm (4 inches) in height.
- (5) The roof sign shall display the licence number of the vehicle on each end in typed figures no smaller than one inch in height.
- (6) Proprietors must ensure that all information on the roof sign is correct and complete, including all wording and telephone numbers.
- (7) Proprietors shall not change the roof sign attached to the vehicle without prior written consent of the Council.

69 Vehicle Identification

- (1) All hackney carriage vehicles will be required to display a rear licence plate, door panels, internal signs and roof sign. The rear licence plate shall be displayed in accordance with **paragraph 70** of this policy, the door panel in accordance with **paragraph 71** and the internal signs in accordance with **paragraph 72**.

70 External Plates

- (1) The external licence plate shall be fixed securely, but not tied to the vehicle, adjacent to the vehicle's registration plate; to the centre of the rear bumper; or to the offside of the rear bumper. Plates shall be kept clean and legible at all times.

71 Door Panels

- (1) A door panel as stipulated by North Lincolnshire Council shall be displayed on both the drivers and front passenger side doors. Such signs shall be secured directly onto the vehicle and shall not be mounted on magnets. No other signs may be displayed on the said doors other than the company name and telephone number. The telephone number shall be a landline number and not a mobile telephone number.

72 Internal Licence Plates

- (1) Internal plates shall be securely fixed in the front windscreen on the passenger side of the vehicle, so that it is not obscured by the sun visor in saloon type vehicles, and on the partition for purpose built vehicles where a partition is fitted. The internal licence plate should be clearly visible to passengers in the vehicle.

73 Advertising and Displaying the Company Name

- (1) Proprietors may advertise either their company name or another business on hackney carriage vehicles subject to approval from the Licensing Authority. Approval should be sought via an application, providing details to be advertised (artwork). The Council will not normally reject an application unless it is deemed to be indecent, offensive or illegal.
- (2) Proprietors will be able to advertise on both saloon type vehicles and purpose built vehicles. It will be permissible to advertise on all panels of a saloon type vehicle, save the two front doors of the vehicle. Purpose-built vehicles will be permitted to have all over advertising. Proprietors will be able to advertise a maximum of two businesses on their vehicles.
- (3) Advertising inside the vehicle is permitted providing it does not distract or obscure the view of the driver.
- (4) Where a business wishes to display the same advertisement on more than one vehicle, then approval should be sought from the Licensing Authority. This approval will apply to hackney carriage vehicles only.

74 Other Signs and Notices (Education Transport)

- (1) In consultation with Education Transport, vehicles may be required to display a notice or sign providing details of the driver authorised to carry out a school run. Where this is the case, the vehicle will be required to display a notice or sign in such a position as determined by the Licensing Authority so as to be easily visible. Proprietors will be notified in writing where this is a requirement.

75 Closed Circuit Television (CCTV)

- (1) Hackney Carriage Vehicles may be fitted with Closed Circuit Television (CCTV) systems. Where such a system is fitted, the vehicle must display a sign/signs ensuring passengers are aware that CCTV is installed and in use and the proprietor shall notify the Council that CCTV is in operation.
- (2) The CCTV system shall be installed by a registered installer and shall be maintained to the manufacturer's standards.

- (3) Where CCTV is installed, there is an expectation that it will be in working order when passengers are being carried. Recordings from such a system must be encrypted and not accessible to the proprietor or driver.
- (4) The CCTV recordings must be available for inspection by a Police Officer or an Authorised Officer of the Council for a period of up to 28 days.
- (5) It is the proprietor's responsibility to ensure that images from the system are held in a secure manner.
- (6) Any misuse of CCTV or recorded images may result in immediate suspension and referral to the Licensing (Miscellaneous) Sub-Committee for the appropriate action.
- (7) The proprietor must ensure that the CCTV system is registered with the Information Commissioner.

76 Dashcams

- (1) Where there is a requirement for a vehicle to be installed with such a device, then the criteria contained within **paragraph 75** must still be adhered to. Proprietors wishing to install such devices must provide the documentation from their insurance company to support the installation.

77 Ranks

- (1) Hackney Carriage Ranks/Stands are provided in accordance with the Local Government (Miscellaneous Provisions) Act 1976. The Council will work with the Taxi Trade, Highways and Humberside Police to determine where ranks/stands should be situated.
- (2) Drivers should use the ranks available to them. Where a driver is standing plying for hire and is illegally parked if, in the opinion of an Authorised Officer of the Council or Police Constable, the driver is plying for hire in a dangerous location, the said driver's licence may be reviewed and such conduct may be deemed reasonable cause to revoke or suspend the licence under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.
- (3) Hackney carriage drivers must not leave their vehicle unattended on a Hackney Carriage Stand/Rank for any reason. The Stands are provided solely for the purpose of plying for hire and are not there as parking spaces for drivers.
- (4) Private hire vehicles are not permitted to stop on a Hackney Carriage Stand/Rank for any reason.

78 Disabled Access and Assistance Dogs

- (1) In order to afford public transport for all and in accordance with the requirements of the Equality Act 2010 and other relevant legislation, all newly licensed hackney carriage vehicles shall be adapted to carry a passenger in a wheelchair. Proprietors wishing to licence such vehicles will be required to produce a certificate stating that the vehicle complies with all current legislation relating to the carrying of disabled passengers.
- (2) Vehicles already licensed as hackney carriages shall be allowed to continue being used as hackney carriage vehicles for as long as a valid licence is in place. If a hackney carriage vehicle licence is allowed to lapse for a period of 28 days, then it will need to be replaced in accordance with the requirements of **paragraph 78(1)**. If there are exceptional circumstances as to why a licence has not been renewed within this period, then the Licensing Manager or Head of Service may extend the said 28 day period. The vehicle may not be used once the licence has expired. The 28 day period is for the purpose of replacing the vehicle with a wheelchair accessible vehicle only and does not impact on the requirement to ensure that all other criteria is met.
- (3) Proprietors replacing a saloon type vehicle will be able to replace it with a similar type of vehicle subject to the provisions in **paragraph 78(2)**. Vehicles licensed as wheelchair accessible vehicles can only be replaced like for like.
- (4) Drivers of vehicles adapted to carry disabled passengers should be trained in the use of equipment necessary to convey the passenger safely.
- (5) Assistance dogs shall be conveyed in the vehicle with the passenger in accordance with statutory requirements.

79 Exemption from Carrying Assistance Dogs or Wheelchairs

- (1) Where a driver has been issued with a Tactile Medical Exemption, giving an exemption from either assistance dogs or from loading passengers in wheelchairs the driver must display the exemption in their vehicle just below the internal licence plate. This exemption will apply to the driver and should be removed when the driver is not using the vehicle for hire and reward.

80 Tinted Windows

- (1) No hackney carriage vehicle shall be fitted with dark or tinted windows (other than factory fitted windows when the vehicle was manufactured). The drivers and front passengers windows shall allow at least 70% of

light through or 75% in the case of the windscreen. Film used to tint windows shall not be permitted.

81 Mobile Telephones

- (1) It is an offence to use a hand held mobile telephone whilst in charge of a motor vehicle with the engine running. Drivers should avoid parking illegally when they stop to take a call or send a text on their mobile phone and shall ensure that they are parked safely and that the engine is switched off.

82 Smoking

- (1) It is an offence for the driver to smoke or to allow persons to smoke in a licensed hackney carriage vehicle irrespective of the vehicles use. Smoking is not permitted even if the doors or windows are open. Drivers wishing to smoke shall only do so away from the vehicle.

83 E-Cigarettes etc

- (1) Irrespective of any health benefits, if there are any, the use of e-cigarettes in hackney carriage vehicles is considered to be unacceptable. These devices still emit a vapour and as such passengers should not be in a position where they are required to accept the use of such devices. Proprietors must ensure that any person driving their vehicle or being conveyed therein understand that e-cigarettes are prohibited in licensed vehicles while plying for hire or when passengers are being conveyed in the vehicle.

84 Child Seats and Booster Seats

- (1) Where children are conveyed in licensed vehicles unaccompanied, the hirer should provide a suitable child restraint. Drivers are responsible for ensuring the safety of children in their vehicle and as such they must ensure that hirer provides suitable seat and that the child is correctly restrained.

85 Licence Conditions

- (1) Conditions attached to hackney carriage and private hire vehicle licences will be reviewed every five years to ensure that they are reasonable and fit for purpose. A copy of the conditions attached to hackney carriage vehicle licences is attached as **Appendix K**.

Section Five

Private Hire Vehicles

86 Summary

- (1) Private hire vehicles are licensed in accordance with the provisions contained in the Local Government (Miscellaneous Provisions) Act 1976.
- (2) Private hire vehicles are not taxis and must not appear to be a hackney carriage or taxi. Vehicles can only be booked in advance through a licensed operator and cannot be hailed in the street, nor can they ply for hire or sit on an appointed hackney carriage stand.
- (3) Before we issue a licence, we must be satisfied that the vehicle is fit, safe and comfortable to be used as a licensed private hire vehicle. This supports our third licensing objective of ensuring the safety of licensed vehicles.

87 Application Process

- (1) In addition to completing an application form, a person wishing to licence a private hire vehicle will need to submit the following:
 - Certificate of Compliance
 - Mechanical Test Sheet
 - Valid Certificate of Insurance for private hire
 - A Bill of Sale (initial application)
 - V5C (initial application)
 - Evidence that the vehicle complies with the Euro Emission standard
 - Road Tax
 - Other Documents as necessary
 - Meter Check (if applicable)
 - Licence Fee
 - LOLER Certificate (where a lift is fitted)

88 Standard of Vehicles to be Licensed

- (1) Vehicles licensed to carry persons for hire and reward must be fit, safe, comfortable and suitable for the purpose for which they are licensed. To ensure that vehicles within the controlled district of North Lincolnshire meet these criteria, the Council has specified that vehicles will be tested and inspected in accordance with the following Table.

Age of Vehicle	Test and Inspection Requirements
Under 5 years of age	Annually

Between 5 years and under 8 years of age	Tested twice per annum (6 monthly intervals)
Over 8 years of age	Tested three time per annum (4 monthly intervals)

- (2) The age of the vehicle will be taken from the date on which the licence will come in to force.

89 Testing and Inspection of Vehicles

- (1) Vehicles will be tested at the Council's test station. On satisfactory completion of the test, a Certificate of Compliance will be issued. The test includes a number of items in addition to the normal MoT test, which can be found in the Hackney Carriage and Private Hire Vehicle Testing and Inspection Manual. The fee for the test will be paid directly to the garage and will not form part of the licence fee.
- (2) The certificate of compliance once issued is only valid in conjunction with a valid private hire vehicle licence.
- (3) Once the vehicle has passed the test, it will be inspected by an Authorised Officer to ensure compliance with the licence conditions and visual standards. The inspection will be conducted in accordance with the Hackney Carriage and Private Hire Testing and Inspection Manual (Part III).
- (4) There is an expectation that vehicles will be presented as they are intended to be used to carry passengers for hire and reward. Where a vehicle is presented and fails the inspection, a fee may be charged for a re-inspection, save where the defect is minor.
- (5) Vehicles will be tested and inspected in accordance with **paragraph 88** of this policy.
- (6) Once tested, proprietors must ensure that the vehicle is presented for the inspection within 15 working days from the date of the test.
- (7) Further to **paragraph 89(6)**, as we are expecting vehicles to be presented within 15 working days we will likewise ensure that we will inspect vehicles within 15 working days from the date we are notified that an inspection is required.

90 Supplementary Inspections

- (1) Further to the number of tests and inspections detailed in **paragraph 88**, the licence holder will be required to submit a supplementary application with valid insurance and proof that the vehicle has passed the mechanical test. A further inspection will not be carried out at this time.

91 Period of Licence

- (1) A private hire vehicle licence will be issued for a period less than 12 months depending on the individual circumstances relating to the vehicle. Such circumstances will be dependent on the age of the vehicle.

92 European Emission Standards

- (1) In addition to the age requirements detailed in **paragraph 88**, it is considered reasonable for licensed private hire vehicles to meet European Emission Standards.
- (2) All applicants for a private hire vehicle licence will need to ensure that the vehicle they wish to licence complies with the **Euro 5** standard, save for wheelchair accessible vehicles which are currently licensed. Currently licensed wheelchair accessible vehicles may be **Euro 4**. From 31 December 2021 all vehicles, including wheelchair accessible vehicles will be required to meet the **Euro 5** standard at the next test/inspection. This provision does not apply to vehicles specified in **paragraph 95**.
- (3) Technical details of the Euro Emissions Standards are available at www.carfueldata.direct.gov.uk.

93 Licensing of Vehicles Over Eight Years of Age

- (1) The Council would not normally licence vehicles that are over eight years of age as private hire. However, where a vehicle over eight years of age is presented for licensing, it will be considered if it is deemed to be in an exceptional condition.
- (2) In defining the exceptional standard for vehicles over eight years of age, the following criteria will be applied:
 - a) the vehicle shall pass North Lincolnshire Council's test and inspection for the Certificate of Compliance at the first attempt and not on re-test; and
 - b) the vehicle must be free from body work blemishes; and
 - c) all interior and exterior accessories must be in full working order.

Where a vehicle has failed North Lincolnshire Council's test and inspection for the Certificate of Compliance at the first attempt for a non-mechanical reason, it may still be considered for licensing providing the vehicles meets criteria b) and c).

- (3) As private vehicles are carrying members of the public for hire and reward, we have a duty to ensure that they are fit, safe, comfortable and suitable for use.

94 Small Vehicles

- (1) There shall be no restriction in relation to the size of vehicles that will be licensed as private hire vehicles. Vehicles will be licensed for the number of passenger seats available.

95 Novelty Vehicles, Stretched Limousines and Vintage Vehicles

- (1) Vehicles such as stretched limousines and fire engines will be licensed by the Council, however such types of vehicle would only be licensed as private hire.
- (2) In addition to the vehicles mentioned in **paragraph 95(1)**, vehicles such as vintage vehicles will also be considered for licensing. Such vehicles will not be required to meet the requirements for Euro emissions as detailed in **paragraph 92**.

96 Adapted Vehicles

- (1) Proprietors wishing to licence a vehicle adapted to carry a passenger in a wheelchair will be required to produce a certificate stating that the vehicle complies with all current legislation relating to the carrying of disabled passengers.

97 Certificate of Insurance

- (1) An applicant for a vehicle licence is required to produce a valid certificate of insurance. We will not accept a photocopy of a certificate, however we will accept evidence provided directly from an insurance company or broker. It remains the licence holder's or applicant's responsibility to provide this information.
- (2) Where the vehicle is included on a fleet policy, a copy of the certificate should still be presented on application. If vehicles are identified in a schedule, then the said schedule must also be produced.

98 Proof of Tax

- (1) Before issuing a licence, we will need to see that the applicant has taxed the vehicle. Although we will inspect the vehicle without valid tax, we will not conduct a meter test, if one is needed.

99 Bill of Sale and Log Book (V5C)

- (1) There is a difference between the registered keeper of the vehicle and the proprietor of the vehicle. Before issuing a licence to a person, we need to be satisfied that they own the vehicle, therefore we require the applicant to produce a Bill of Sale in addition to the vehicle's log book.
- (2) The log book (V5C) is used to determine the age of the vehicle and provide other relevant information about the vehicle. This document should be produced as part of the application.

100 Meters & Table of Fares

- (1) Where a private hire vehicle is fitted with a meter, then the proprietor must ensure that the vehicle displays a table of fares. The table of fares should be displayed on the dashboard in view of the passengers.

101 Vehicle Identification

- (1) Private hire vehicles will be required to display a rear licence plate, door panel, and internal sign. The rear licence plate shall be displayed in accordance with **paragraph 102** of this policy, the door panel in accordance with **paragraph 103** and the internal signs in accordance with **paragraph 104**.

102 External Plates

- (1) The external licence plate shall be fixed securely, but not tied to the vehicle, adjacent to the vehicle's registration plate; to the centre of the rear bumper; or to the offside of the rear bumper. Plates shall be kept clean and legible at all times.

103 Door Panels

- (1) A door panel as stipulated by North Lincolnshire Council, shall be displayed on both the drivers and front passenger side doors. Such signs shall be secured directly onto the vehicle and shall not be mounted on magnets. No other signs may be displayed on the said doors other than the company name and telephone number. The telephone number shall be a land line number and not a mobile telephone number.
- (2) The company name must not use the wording "TAXI" or "FOR HIRE" on the side of the vehicle, even when it forms part of the company name.

104 Internal Plates

- (1) Internal plates shall be securely fixed in the front windscreen on the passenger side of the vehicle, so that it is not obscured by the sun visor in saloon type vehicles and on the partition for purpose built

vehicles where a partition is fitted. The internal licence plate should be clearly visible to passengers in the vehicle.

105 Exemption from Displaying Licensed Plate

- (1) A proprietor may apply for an exemption from displaying the private hire licence plate and door panels on the vehicle. Such an application shall be made on the appropriate application form. Exemptions will only be granted to vehicles that comply with **paragraph 106** of this policy.

106 Executive Vehicles etc

- (1) Exemptions from displaying identification plates shall only be granted for executive vehicles and novelty vehicles. Proprietors will need to demonstrate that their vehicle meets the following criteria:
 - The vehicle is not fitted with a “Taximeter”
 - There is no advertising on the vehicle
 - The vehicle is driven by a uniformed driver or a driver in costume
 - There is no exemption from carrying assistance dogs
- (2) Such vehicles will be required to display the internal identification disc in the front window and shall keep the licence plates and letter of exemption in the vehicle.
- (3) We reserve the right to withdraw an exemption from displaying a licence plate at all times should it be found that a driver is abusing the exemption.
- (4) We reserve the right to allow exemptions on other vehicles in exceptional circumstances.

107 Advertising and Displaying the Company Name

- (1) Proprietors may advertise their business on a private hire vehicle subject to approval from the Licensing Authority. Approval should be sought via an application form, providing the details to be advertised (artwork). Such adverts shall not contain the word “TAXI” or “FOR HIRE” or “CAB” as private hire vehicles are not Taxis or Cabs.
- (2) Where an operator wishes to display the same advertisement on more than one vehicle, then approval should be sought from the Licensing Authority. This approval will apply to private hire vehicles only.

108 Displaying Notices

- (1) All private hire vehicles shall display a notice on the rear near-side passenger window as required by the Licensing Authority. Licence holders shall be notified in writing when such a notice should be displayed.

109 Other Signs and Notices (Education Transport)

- (1) In consultation with Education Transport, vehicles may be required to display a notice or sign providing details of the driver authorised to carry out a school run. Where this is the case, the vehicle will be required to display a notice or sign in such a position as determined by the Licensing Authority so as to be easily visible. Proprietors will be notified in writing where this is a requirement.

110 Closed Circuit Television (CCTV)

- (1) Private hire vehicles may be fitted with Closed Circuit Television (CCTV) systems. Where such a system is fitted, the vehicle must display a sign/signs ensuring passengers are aware that CCTV is installed and in use and the proprietor shall notify the Council that CCTV is in operation.
- (2) The CCTV system shall be installed by a registered installer and shall be maintained to the manufacturer's standards.
- (3) Where CCTV is installed, there is an expectation that it will be in working order when passengers are being carried. Recordings from such a system must be encrypted and not accessible to the proprietor or driver.
- (4) The CCTV recordings must be available for inspection by a Police Officer or an Authorised Officer of the Council for a period of up to 28 days.
- (5) It is the proprietor's responsibility to ensure that images from the system are held in a secure manner.
- (6) Any misuse of CCTV or recorded images may result in immediate suspension and referral to the Licensing Committee for the appropriate action.
- (8) The proprietor must ensure that the CCTV is registered with the Information Commissioner.

111 Dashcams

- (1) Where there is a requirement for a vehicle to be installed with such a device, then the criteria contained within **paragraph 110** must still be adhered to. Proprietors wishing to install such devices must provide the documentation from their insurance company to support the installation.

112 Disabled Access and Assistance Dogs

- (1) Where a vehicle is adapted to carry a passenger in a wheelchair or other disabled user, then the driver of the said vehicle should have appropriate training to ensure that the passengers are conveyed safely.
- (2) Assistance dogs shall be conveyed in the vehicle with the passenger in accordance with statutory requirements.

113 Exemption from Carrying Assistance Dogs

- (1) Where a driver has been issued with a Tactile Medical Exemption, giving an exemption from carrying assistance dogs, the driver must display the exemption in their vehicle just below the internal licence plate. This exemption will apply to the driver and should be removed when the driver is not using the vehicle for hire and reward.

114 Mobile Telephones

- (1) It is an offence to use a hand held mobile telephone whilst in charge of a motor vehicle with the engine running. Drivers wishing to take a call or send a text on their mobile phone shall ensure that they are parked safely and that the engine is switched off.

115 Smoking

- (1) It is an offence for the driver to smoke or to allow persons to smoke in a licensed private hire vehicle irrespective of the vehicles use. Smoking is not permitted even if the doors or windows are open. Drivers wishing to smoke shall only do so away from the vehicle.

116 E-Cigarettes etc

- (1) Irrespective of any health benefits, if there are any, the use of e-cigarettes in private hire vehicles is considered to be unacceptable. These devices still emit a vapour and as such passengers should not be in a position where they are required to accept the use of such devices. Proprietors must ensure that any person driving their vehicle or being conveyed therein understand that e-cigarettes are prohibited in licensed vehicles while passengers are in the vehicle or when travelling to pick up a passenger.

117 Child Seats and Booster Seats

- (1) Where children are conveyed in licensed vehicles unaccompanied, the hirer should provide a suitable child restraint. Drivers are responsible for ensuring the safety of children in their vehicle and as such they must ensure that the hirer provides a suitable seat and that the child is correctly restrained.

118 Licence Conditions

- (1) Conditions attached to private hire vehicle licences will be reviewed every five years to ensure that they are reasonable and fit for purpose. A copy of the conditions attached to a private hire vehicle licence is attached to this policy as **Appendix L**.

Section Six

Private Hire Operators

119 Summary

- (1) Private hire operators are licensed in accordance with the provisions contained in the Local Government (Miscellaneous Provisions) Act 1976 for any person who takes a booking for a private hire vehicle.
- (2) A private hire operators licence is not needed to operate hackney carriage vehicles (taxis). Private hire vehicles can only be booked in advance through a licensed operator. An operator can only use vehicles licensed with the same licensing authority.
- (3) Before we issue a licence, we must be satisfied that the operator is a fit and proper person. This supports our first two licensing objectives.

120 Fit and Proper Person

- (1) Before we can issue a licence we must be satisfied that the person holding the licence is a fit and proper person. Licensed operators have a responsibility to ensure that the drivers and vehicles who take bookings on their behalf convey the public, including vulnerable adults and/or children in safety. The Council will not licence anyone to operate a private hire vehicle unless it is satisfied that they are a “fit and proper” person. In considering the fit and proper test, applicants will be required to satisfy the application process outlined in **paragraph 121**.
- (2) When licensing drivers of licensed vehicles, we will consider matters that support all three licensing objectives:
 - Ensure that operators, drivers and proprietors act with honesty and integrity;
 - The protection of vulnerable people and children being transported in hackney carriage and private hire vehicles;
 - Ensuring the safety of licensed vehicles
- (3) With an application, the onus is on the applicant to prove that they are a fit and proper person and we cannot issue a licence unless we are satisfied.

121 Application Process

- (1) In addition to completing an application form, a person wishing to operate a private hire vehicle will need to submit the following:
 - Basic Disclosure Check

- One passport size colour photograph required on renewal at the same time as the DBS check (Endorsed).
- Certificate of Good Conduct
- Right to Work
- Safeguarding and Child Sexual Exploitation (CSE) Awareness Training
- English Language
- Licence Fee
- Certificate of Public Liability Insurance

- (2) An application for a private hire operators licence can be made online. Where such an application is made, the applicant will still need to meet the criteria detailed in **paragraph 121(1)**.

122 Disclosure and Barring (DBS) Check

- (1) All persons applying for a private hire operator's licence will be required to submit a Basic Disclosure on initial application and on renewal every five years thereafter. Further checks may be carried out if we have reason to think that a person has been convicted of an offence since they were last licensed. These checks will be carried out at the expense of the licence holder.
- (2) On return of the disclosure check where convictions have been disclosed, an assessment panel may be held. This panel will consider the conviction(s) and should it be deemed relevant, then the application will be referred to the Licensing (Miscellaneous) Sub-Committee for consideration.
- (3) Where an applicant is barred from working with either vulnerable adults or children, then they will be referred to the Licensing (Miscellaneous) Sub-Committee. The Committee will determine if the person is "fit and proper" in the case of new applicants or will consider matters under "any other reasonable cause" for renewals. Such determinations shall be made in accordance with the Guidance for Members at **Appendix E** of this policy.

121 Identity

- (1) An applicant for a private hire operator's licence must provide one passport photograph. The photograph shall be endorsed by a person of professional standing to the effect that the photograph is a true likeness to the applicant. This should be dated and signed. The person of professional standing must have known the applicant for at least three years.
- (2) The person of professional standing shall not include a relative of the applicant or another hackney carriage or private hire driver, proprietor or operator, or an Officer or Member of North Lincolnshire Council.

- (3) Photographs other than standard passport photographs will not be accepted.
- (4) The applicant should not wear headwear (other than for religious purposes), dark glasses or other items, which cover the head or face and should be take with a cream or light grey background.

122 Certificate of Good Conduct

- (1) Persons who have been resident outside the United Kingdom will be required to produce a Certificate of Good Conduct or equivalent document issued by the relevant Embassy or High Commission. The Council may contact the relevant Embassy or appropriate body to verify any documents provided.
- (2) There are certain times that a person may have lived outside the United Kingdom where we would not ask for a Certificate of Good Conduct. These times are as follows:
 - Lived outside the United Kingdom as a member of Her Majesty's Armed Forces, subject to British Law; or
 - Moved to the United Kingdom before the age of 10 years old; or
 - Entered the United Kingdom as an asylum seeker and cannot return to their country of origin for fear of reprisal
- (3) Where a person has been resident outside the United Kingdom as per **paragraph 122(2)**, then we would expect them to produce evidence. Where they cannot provide evidence then we would normally still require a Certificate of Good Conduct. Acceptable evidence would include the following:
 - Discharge Certificate from HM Armed Forces
 - Immigration Documentation
 - Asylum Documentation
- (4) Where a person has lived in the European Union (EU) we would expect them to produce a European Criminal Records Information Systems Check (ECRIS) or similar, unless they have lived there as per **paragraph 122(2)**, which has been evidenced as per **paragraph 122(3)**.
- (5) It is the applicants responsibility to provide this information. The application will not proceed until such time that it has been provided.

123 Right to Work

- (1) Before we will issue a licence we must be satisfied that a person has the right to live and work in the United Kingdom. We will not issue a licence to expire beyond the time that a person is entitled to work in the country.

124 Safeguarding and CSE Awareness

- (1) Before issuing a licence, applicants will be required to attend and pass the Safeguarding and CSE Awareness Training. The core of the training will focus on these areas, however we reserve the right to add other subject matter that is deemed appropriate to support our licensing objectives.
- (2) We would recommend that all persons employed by the operator should attend CSE and Safeguarding Training.

125 Employing Hackney Carriage Vehicles and Drivers

- (1) Although the law allows a private hire operator to employ hackney carriage vehicles and drivers licensed in other areas on a private hire basis, we will expect any such drivers to adhere to the same standard as North Lincolnshire. As such, we would expect such drivers to have attended and passed Safeguarding and CSE Awareness Training and to have had DBS checks to the same standard.
- (2) We would expect operators to ensure that such vehicles are not subject to an intended use policy by the issuing authority. Where they are, we would recommend that they do not employ the person/vehicle.

126 Criminal History

- (1) Unlike hackney carriage and private hire vehicle drivers, who are an exempt occupation under the provisions of the Rehabilitation of Offenders Act 1974, Private Hire Operators are not and as such any convictions become spent over a period of time. When considering convictions and endorsements, the Council will only take into consideration such convictions that are unspent and that are deemed to be relevant.
- (2) A criminal record does not automatically bar an applicant from holding a private hire operators licence. The Council has adopted guidance for members relating to a person's criminal history. This guidance is detailed in **paragraph 10(5)** and can be found at **Appendix E**. Each case shall be determined on its own merits.

127 English Speaking

- (1) Applicants for private hire operators licences must be able to converse in English. Operators will be in contact with customers and may potentially be in contact with vulnerable adults and children and it is important that language should not be a barrier to communication.

- (2) In addition, it is expected that private hire vehicle operators are able to read and write in English. All applicants for a licence are expected to have as a minimum, B1 level of English. Applicants for a new licence and to renew will only be required to prove this level of English on one occasion.

128 Public Liability Insurance

- (1) There is an expectation that every private hire operator will have public liability insurance, covering claims up to £10,000,000. Applicants must produce their certificate of insurance on application and display the certificate or certified copy of the certificate in their premises so as to be easily visible to members of the public once a licence has been granted.

129 Qualifications

- (1) The Council recognises and supports training and qualifications for the licensed trade. It is considered important for licensed drivers and operators to hold the BTEC in Transporting Passengers by Taxi and Private Hire and the NVQ in Road Passenger Vehicle Driving, however the Council will not insist that drivers hold qualifications in order to obtain a licence.

130 Training for Drivers and Other Staff

- (1) In addition to the training that we provide hackney carriage and private hire licensed drivers, we would expect private hire operators to carry out their own training and maintain records. The sort of training we would expect operators to carry out include:
 - Customer Service and Professionalism
 - Manual Handling
 - Health and Safety
 - Disability Awareness and Wheelchair Loading
 - Code of Conduct
- (2) The operator must keep records of the training carried out, which must be made available upon request by an Authorised Officer of the Council.
- (3) In addition to the training identified, operators must ensure that their drivers are fully trained regarding the needs of passengers being carried, especially when conducting local authority contract work or carrying vulnerable passengers.

131 Determination of an Application

- (1) Officers have delegated authority to issue a licence where they are satisfied that the person is fit and proper. If the Officer has any doubt

about the person, then the applicant will be referred to the Licensing (Miscellaneous) Sub-Committee for their consideration.

- (2) The Officers and the Members of the Licensing (Miscellaneous) Sub-Committee will follow the provisions contained within this policy. There may be times when it is prudent to deviate from this policy. Where this occurs, the full reasons for deviating from the policy will be provided in writing.

132 Period of Licence

- (1) Private hire operators licences are issued for a period of either one or five years.
- (2) Subject to an appearance before the Licensing (Miscellaneous) Sub-Committee, a licence may be issued for a period other than the one or five years where the Committee consider it reasonable.

133 Review of a Licence

- (1) When reviewing a licence, we are not looking at whether a person is “fit and proper”. When a private hire operator is reviewed it is carried out under section 62 of the Local Government (Miscellaneous) Provisions Act 1976.
- (2) Under section 62(1)(a) we can review a licence for one of the following reasons:
 - has been convicted of an offence under either the Local Government (Miscellaneous) Provisions Act 1976 or the Town Police Clauses Act 1847; or
 - any conduct on the part of the operator which appears to render him unfit to hold a licence; or
 - any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
 - for any other reasonable cause
- (3) Please refer to the Act of 1976 for the actual wording.
- (4) The wording “any other reasonable cause” is very broad. We will review a licence where we have had a complaint that has been substantiated, where the person has amassed 12 points on their licence under the Warning Points Scheme, or where they have relevant convictions or endorsements.
- (9) Members will follow the guidance as detailed in this policy when making decisions. Where they deviate from the guidance they will provide written reasons for doing so.

134 Change of Address

- (1) When we determine an application for an operator's licence, we are considering a number of issues, such as the suitability of the person, the premises and enforcement. Where an operator moves from one premises to another, then we would not charge the elements for the person and potentially not for enforcement. The Licensing Manager or the Licensing and Mediation Officer can remit some of the cost when considering an application where the operator has moved address.
- (2) An operator's licence cannot be transferred from one person to another.

135 Determination of a Review

- (1) Where Officers have doubt as to whether a person is suitable, the said person may be referred to the Licensing (Miscellaneous) Sub-Committee under section 62 of the Local Government (Miscellaneous) Provisions Act 1976. A review under this section can be because a person has been convicted of a certain type of offence or for any other reasonable cause.
- (2) Where a person has accumulated more than 12 warning points under the warning points scheme they will be referred to the Licensing (Miscellaneous) Sub-Committee for consideration.
- (3) The Officers and the Members of the Licensing (Miscellaneous) Sub-Committee will follow the provisions contained within this policy. There may be times when it is prudent to deviate from this policy. Where this occurs, the full reasons for deviating from the policy will be provided in writing.

136 Complaints and Non-conviction Information

- (1) Where information is received that a licensed operator has been convicted of a relevant offence or where information is received either by way of complaint or non-conviction information is disclosed by another party, then the information will be considered to determine if it is relevant.
- (2) If the information has been determined as relevant then the appropriate action will be taken. Such action could result in a referral to the Licensing (Miscellaneous) Sub-Committee for a review of the licence.
- (3) When considering complaints and non-conviction information under any other reasonable cause, each case shall be considered in accordance with **Schedule 1 of Appendix G** as if the date of complaint were the date of conviction. Each case shall be determined on its own merits.

137 Record Keeping

- (1) Operators shall keep records in accordance with the conditions attached to their licence. Such records should be available upon request from a Police Constable or Authorised Officer.

138 Sub-Contracting, Consent of the Hirer

- (1) The Local Government (Miscellaneous Provisions) Act 1976 allows operators to sub-contract journeys to another operator who holds a private hire operators licence.
- (2) Where there is a possibility of a journey being sub-contracted we would expect the operator to inform the customer of the possibility, giving such information to the hirer so that they know who will carry out the journey.
- (3) Where there is a written contract with a customer that prohibits sub-contracting or specifically requires the hirers consent, then we would reasonably expect that such provisions will be adhered to.

139 Parking of Vehicles

- (1) Operators shall ensure that vehicles that are booked through their office/radio circuit are parked in a legal manner and do not cause an obstruction to other road users.

140 Planning Consent

- (1) Operators shall ensure that they have the appropriate planning consent to operate their business.

141 Telephones

- (1) Operators should have a landline telephone on which bookings are taken.
- (2) It is an offence to use a mobile telephone whilst driving. Operators shall ensure that drivers wishing to take a call on their mobile phone are parked safely and that the vehicles engine is switched off.

142 Advertising

- (1) Where an operator wishes to display the same advertisement on more than one vehicle, then approval should be sought from the Licensing Authority.

143 Non-Statutory Public Register

- (1) The details of all private hire operators will be entered onto a public register. The information contained will include; the operators name; business name; business address; licence number; issue date; expiry date and status of the licence.

Section Seven

Enforcement

144 Summary

- (1) The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 contain a number of offences. Many of these offences relate to the protection of the public.
- (2) The Council's Licensing Officers will work closely with Humberside Police and the Council's Vehicle Maintenance Department in addressing such issues.
- (3) The Licensing Authority will also look to work closely with other enforcement authorities when dealing with licensed and/or unlicensed vehicles, drivers and operators, especially concerning cross boundary related issues.
- (4) The Local Government (Miscellaneous Provisions) Act 1976 also gives the authority powers to serve notice on proprietors of hackney carriage and private hire vehicles to produce their vehicle for inspection to ascertain its fitness. Where a vehicle is deemed unfit for its intended purpose the proprietor will be issued with a suspension notice in accordance with Section 68. If the vehicle is not brought up to a suitable standard within two months from the date of the notice, the licence will automatically be deemed to be revoked.
- (5) It is an offence to drive a licensed vehicle unless the driver is licensed to do so. Once a vehicle is licensed it remains so licensed until expiry, suspension or revocation of the licence.
- (6) An offence is also committed if there is a breach of the Byelaws or Conditions attached to a licence.
- (7) Such offences may result either in prosecution or the licence being reviewed by the Licensing (Miscellaneous) Sub-Committee, who may attach additional conditions to the licence.
- (8) In dealing with enforcement issues the Council will act in a fair, consistent manner and will treat all cases and people with consideration and empathy in accordance with our enforcement policies.

145 Complaints

- (1) We risk assess complaints once they are received. In conducting this risk assessment complaints will be determined as either high, medium or low risk. Having risk assessed the complaints we will investigate all complaints that are deemed to be high risk or where there is a risk to

public safety or animal welfare. We will reserve the right to focus our resources in such areas to the detriment of lower risk complaints.

- (2) Complainants will be encouraged to raise the complaint with the licence holder or business concerned in the first instance. Failing this, or where the complaint is serious in nature, then following an investigation the Licensing Authority will take any appropriate action. Such action may include prosecution, review of the licence or both. In any case, the Licensing Authority does not need a conviction in order to take the appropriate action.
- (3) When dealing with complaints or non-conviction information, for the purpose of dealing with the fitness of an applicant or for any other reasonable cause, such information may be considered in line with the Guidance issued to Members of the Licensing Committee and non-conviction information may be considered in the same way as convictions.

146 Enforcement Options

- (1) Where a hackney carriage or private hire driver, operator or proprietor has committed an offence or breached the licence conditions, there are a number of enforcement options available.
- (2) The enforcement options available are both civil and criminal in nature and are detailed in our Business Compliance and Support Policy and the Council's Enforcement Policy.

Section Eight

Warning Points Scheme

147 Summary

- (1) The warning points scheme covers all holders of hackney carriage and private hire vehicle drivers and proprietors and private hire operators.
- (2) The scheme has been developed to provide the Licensing (Miscellaneous) Sub-Committee and Licensing Officers with more options when dealing with breaches to licence conditions or when an offence has been committed. Under the legislation, the only options available to the Committee are to issue a warning, suspend or revoke a licence, while Officers can either prosecute or refer the licence holder to the Committee.
- (3) The points scheme will allow Licensing Officers and Members of the Committee to attach points, thus bridging the gap between doing nothing and suspension or revocation.

148 Principals of the Scheme

- (1) Officers will be able to attach points for minor breaches of conditions or offences which on their own would not merit a review of the licence or a prosecution. The attachment of the points is in effect no more than a warning. Licence holders who attain more than 12 points in the relevant period would be referred to the Licensing (Miscellaneous) Sub-Committee, who would determine the licence under “any other reasonable cause”, in accordance with sections 60, 61 or 62 of the Local Government (Miscellaneous Provisions) Act 1976.
- (2) The Warning Points Scheme in effect, provides a warning to drivers about their behaviour and no more than that. The difference between a warning issued with no points and a warning issued under the scheme is that the points serve as a trigger where the driver attains more than 12 points and there is a limit as to how long the points stay on the person’s file. A warning without points will stay on a file indefinitely.
- (3) A copy of the warning points scheme is attached as **Appendix G** to this policy and a list of the points is attached as **Schedule 1 to Appendix G**.
- (4) There are some cases where the attachment of points to a licence would not be deemed appropriate. In such cases, the option will not be available within the points scheme.
- (5) Nothing within this section of the policy shall prejudice the Council’s or Officer’s ability to refer an applicant or licence holder to the Licensing

Committee where there is a doubt as to whether they are a “fit and proper” person or for any other reasonable cause.

- (10) The Council will not fetter its discretion when dealing with such matters. Points will only be attached to a licence following an investigation by an Officer or a Hearing by the Licensing (Miscellaneous) Sub-Committee. Each case will be determined on its own merits and both the Members of the Committee and Officers will have discretion to take into account all the circumstances in each case. The points are for administration purposes only and will be taken into account when determining if a person is fit and proper or for any other reasonable cause.
- (11) Where a licensed driver has been referred to the Licensing (Miscellaneous) Sub-Committee following a complaint or when information has been received which raises the question if the person is “fit and proper” or for any other reasonable cause; then the members of the committee may award points or suspend or revoke the licence where such options are available.

149 Appeals

- (1) An appeal against a warning issued under the Warning Points Scheme will only be accepted for one of the following reasons:
 - The person did not commit the offence or breach
 - They could not reasonably be expected to know that it was an offence or breach
 - It is a case of mistaken identity
- (2) An appeal on the basis that a person did not commit an offence or a breach of conditions should be rare. Before issuing points an investigation will be carried out in order to avoid such cases.
- (3) When conducting an investigation we will consider whether the person should have known that the infringement or offence was such. Where we are satisfied that they may not have known then a warning will be issued without points.
- (4) Where there is a case of mistaken identity, then in certain cases we would normally expect either the proprietor or operator to provide the correct details. In such cases, Officers will quash the warning points without the need for an appeal. Where no such information is available, then the case will be decided by a Member of the Licensing Committee.
- (5) Where an appeal does not meet the criteria detailed in **paragraph 149(1)**, then officers may treat the appeal as frivolous and reject it. Should an appeal be rejected then the person submitting the appeal may request that the matter is reconsidered on production of the

evidence they wish to rely on at the appeal. The reviewing officer may either uphold the original decision or refer the matter for appeal.

- (6) As the attachment of points is a warning, the Member considering the appeal shall only consider the case as per **paragraph 149(1)** as any such appeal if agreed will state that the person does not merit a warning.
- (7) The Member of the Committee hearing the appeal shall follow the Guidance to Members as per Appendix D of this policy. Should they wish to deviate from this guidance then they will provide full written reasons why.
- (8) Where a driver, proprietor, operator or an applicant to renew a licence is awarded warning points and they have submitted an appeal, but they are due to appear before the Licensing (Miscellaneous) Sub-Committee, then no separate appeal hearing will be arranged.

Appendix A

The attached table includes a list of useful contacts regarding licensing. The contacts are generally available during office hours, Monday to Thursday 09.00 a.m. to 17.00 p.m. and Friday 09.00 a.m. to 16.30 p.m.

Department/Contact	For	Contact Details
Licensing Team	Application Process; Vehicle Inspection;	Licensing Team Church Square House PO Box 42 SCUNTHORPE North Lincolnshire DN15 6XQ Telephone: 01724 297750 e-mail: Licensing@northlincs.gov.uk
	Policy; Vehicle Testing Criteria	www.northlincs.gov.uk
Fleet Management	Vehicle Mechanical Test;	01724 297867
	Taxi Driver Standards Test	Fleet Workshop & Offices Plot 22 Grange Lane North Scunthorpe North Lincolnshire DN16 1BT Tel: 07812 739665



GUIDANCE TO MEMBERS

**Applications for Hackney Carriage & Private Hire
Vehicle Drivers' Licences**

1.0 Introduction

- 1.1 This guidance was originally based on the Department of Transport Circular 2/92 and the Home Office Circular 13/92. In developing the guidance consideration has been given to the amendment to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 in March 2002 to include drivers of Hackney Carriages and Private Hire Vehicles and the Bichard Enquiry regarding the disclosure of non-conviction information on Criminal Record Disclosures. The guidance was reviewed in 2014 to include a points scheme, which is used to determine if a person is “fit and proper” or “for any other reasonable cause” and to provide further clarification as to how motoring convictions and fixed penalties are dealt with.
- 1.2 The purpose of the guidance is to assist Members and Officers to determine the fitness of an applicant to hold a Hackney Carriage/Private Hire Vehicle Drivers Licence in accordance with The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

2.0 Background

- 2.1 North Lincolnshire Council is a registered body with the Disclosure and Barring Service, formally the Criminal Records Bureau.
- 2.2 It uses the **Disclosure and Barring Service, formally the Criminal Records Bureau** (DBS) to assess an individual’s suitability to drive a Hackney Carriage / Private Hire Vehicle.
- 2.3 The main objective is to obtain information to assist in establishing whether a person is a ‘fit and proper person’ under the Local Government (Miscellaneous Provisions) Act 1976.
- 2.4 It also enables the local authority to attach any conditions to the granting of the licence, which it feels are necessary to protect members of the public.

3.0 Scope of Legislation

- 3.1 The Rehabilitation of Offenders Act was introduced in 1974 to help restore the reputation of persons who have been convicted of an offence but have since stayed on the right side of the law. In normal circumstances, if someone is sentenced to 30 months or less in prison, the conviction will become 'spent' after 7 years, beginning with the date of sentence, and would no longer need to be disclosed when applying for employment. However, applicants for certain occupations, including Hackney Carriage and Private Hire Drivers, will always be required to disclose all their previous convictions, regardless of whether or not they would normally be regarded as 'spent', and all relevant convictions can therefore be considered.
- 3.2 The Bichard Enquiry came following the Home Secretary’s announcement that an independent inquiry would be held. This would consider the way in

which the police handled intelligence and the vetting processes prior to Huntley being employed in a school.

3.3 Sir Michael Bichard, Rector of the London Institute and a former Permanent Secretary at the Department for Education and Employment, was appointed as Chairman of the inquiry.

3.4 Sir Michael Bichard looked into the events surrounding the Soham Murders of 2002 and in particular what was previously known about Huntley. The concern existed that professionals in Humberside were aware that Huntley had a history of sexual relationships with girls under the age of sixteen. However, this information did not appear to have been readily available and as a consequence when the school where Huntley was subsequently employed carried out its statutory checks on him nothing untoward came to light. Bichard made a number of recommendations, some of which affects the information, which is now disclosed on the DBS Disclosure that may not have appeared before.

3.5 On initial application for a licence, and upon application to renew a licence every 3 years, a request is made to the DBS for a disclosure of any criminal record held in the name of the applicant prior to the grant of a licence.

3.6 An Enhanced Disclosure is requested, which contains the same details as a Standard Disclosure but may also contain non-conviction information from local police records, which a chief police officer thinks may be relevant in connection with the matter in question.

3.7 It is also a requirement that the applicant must submit their DVLA driving licence for both new and renewal applications. Failure to do so will result in the application being incomplete.

3.8 A further DBS check can be requested by the Licensing Division at any time during a licence where there is reason to believe that the licence holder has been convicted of a further offence. Information may be received from many different sources such as, the public, trade, police or even in the local press regarding current Hackney Carriage/Private Hire Vehicle Driver's who have been convicted of an offence.

4.0 Magistrates Guidelines and the Committee

4.1 When the Magistrates convict a person, they act within their guidelines. According to the seriousness of the offence or exceptional hardship, a person might receive a more lenient sentence or be able to retain their drivers licence. Members cannot take these guidelines into consideration when they make their decision, nor should they consider exceptional hardship when deciding if a person is fit and proper to hold a licence. Members should restrict their deliberations to this guidance and determine each application on its merits.

5.0 Determination of Relevant Information/Convictions, by Board of Officers

5.1 As previously stated, applicants for Hackney Carriage & Private Hire Vehicle Drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974, and therefore all relevant convictions can be considered.

5.2 The legislation also allows the Licensing Authority to consider comments received by the Police relating to Hackney Carriage/Private Hire Vehicle Drivers, in situations where a conviction may or may not have been obtained. As all applicants or licensed Hackney Carriage/Private Hire Vehicle Drivers have the right to a fair and proper hearing, the members, in these circumstances, will have the opportunity to put questions to the applicant and the police and clarify any issues raised in the DBS disclosure made by the police, at the Sub-Committee.

5.3 Where a DBS Disclosure, for the application or review of a driver's licence shows a Trace or is accompanied by any relevant Police comments, an Assessment Board of Officers of the Licensing Team considers the nature of any offences or information provided by the Chief Police Officer. The date of the event, the age of the applicant and any other relevant factors will be considered to determine if it is relevant. In the event that the Assessment Board has any doubt as to whether the applicant is a "fit and proper" person, they will be referred to the Licensing (Miscellaneous) Sub-Committee to determine the application.

5.4 On receipt of the application, disclosure and DVLA driving licence, the Licensing Officer will check the details. If convictions are disclosed and/or offences displayed on the driving licence, an Assessment Board, comprising of three members of the Licensing Team, will be convened.

5.5 The Assessment Board will consider: -

- Whether the conviction or other matters revealed are relevant to the application in question,
- The seriousness of any offence or other matter revealed,
- The length of time since the offence or other matter occurred,
- Whether the disclosure reveals a pattern of behaviour,
- Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters, and
- The circumstances surrounding the offence and the explanation(s) offered by the applicant.

6.0 Role of the Licensing (Miscellaneous) Sub-Committee

6.1 The members on the Sub-Committee are an impartial body who are appointed to hear and determine applications for Hackney Carriage and Private Hire Vehicle Drivers Licences. When doing so they shall consider all information and determine each application on its merits, having taken into account this guidance.

6.2 In the case of applications, the onus is on the applicant to prove that they are a “fit and proper” person. Should they not be able to satisfy the Committee of this, then the application should be refused.

7.0 Determination of Application where Convictions/Endorsements are disclosed

7.1 If the matters revealed are deemed relevant, the Assessment Board will refer the matter to the Licensing (Miscellaneous) Sub-Committee for determination. Certain types of offences will always be referred.

7.2 The following examples afford a general guide on the action to be taken where convictions are admitted.

a) *Minor traffic offences*

Convictions or fixed penalties for minor traffic offences should not prevent a person from proceeding with an application. The following offences, in Table 1 are deemed to be minor motoring convictions for the purpose of this guidance:

Table 1	
Code	Offence Detail
AC10	Failing to stop after an accident.
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence.
CU10	Using a vehicle with defective brakes.
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
CU30	Using a vehicle with defective tyre(s).
CU40	Using a vehicle with defective steering.
CU50	Causing or likely to cause danger by reason of load or passengers.
CU60	Undefined failure to comply with Construction and Use Regulations.
CU80	Breach or requirements as to control of the vehicle, mobile telephone etc.
LC10	Driving without a licence.
LC20	Driving otherwise than in accordance with a licence.
LC30	Driving after making a false declaration about fitness when applying for a licence.
LC40	Driving a vehicle having failed to notify a disability.
LC50	Driving after a licence has been revoked or refused on medical grounds.
MR39	Driving a vehicle faster than the permitted speed
MS10	Leaving a vehicle in a dangerous position.
MS20	Unlawful pillion riding.
MS30	Playstreet Offences
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle).
MS70	Driving with uncorrected defective eyesight.
MS80	Refusing to submit to an eye test.
MS90	Failure to give information as to identity of driver etc.
MW10	Contravention of special roads regulations (excluding speed limits).
PC10	Undefined contravention of pedestrian crossing regulations.
PC20	Contravention of pedestrian crossing regulations with moving vehicle.

PC30	Contravention of pedestrian crossing regulations with stationary vehicle.
SP10	Exceeding goods vehicle speed limit.
SP20	Exceeding speed limit for type of vehicle (Excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road.
SP40	Exceeding passenger vehicle speed limit.
SP50	Exceeding speed limit on a motorway.
TS10	Failing to comply with traffic light signals.
TS20	Failing to comply with double white lines.
TS30	Failing to comply with 'STOP' sign.
TS40	Failing to comply with direction of a constable/warden.
TS50	Failing to comply with traffic sign (excluding 'STOP' signs, traffic lights or double white lines).
TS60	Failing to comply with school crossing patrol.
TS70	Undefined failure to comply with traffic direction sign.

Where an endorsement is made for aiding, abetting, counselling or procuring offences (0 is replaced with 2, code LC20 becomes LC22); or causing or permitting offences (0 is replaced with 4, code LC20 becomes LC24); or inciting (0 is replaced with 6, code LC20 becomes LC26), these will also be deemed to be minor traffic offences.

Where an applicant has accrued 12 or more points on their licence, that would be sufficient to require a period of disqualification of the applicant's driving licence, then members will normally consider if it is appropriate to refuse the application, especially if there is a pattern of offending, for example of excessive speed. In such cases, it would be for the applicant to state their mitigation to the Licensing (Miscellaneous) Sub-Committee as to why they are a fit and proper person or why they should be granted a licence.

b) Major traffic offences

An isolated conviction one of the offences listed in Table 2, for example for reckless driving or driving without due care and attention etc, should not normally merit either the refusal of an application for a Hackney Carriage and/or Private Hire Vehicle Drivers Licence. Clarification should be sought as to the reason for the conviction and circumstances at the time of the offence should be taken into account.

Code	Offence Detail
BA10	Driving while disqualified by order of court.
BA30	Attempting to drive while disqualified by order of court.
CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
IN10	Using a vehicle uninsured against third party risks.
MS50	Motor racing on the highway.
TT99	Disqualification under totting-up.

More than one conviction or endorsement for this type of offence within the last three years would normally merit refusal of an application for a Hackney Carriage or Private Hire Vehicle Drivers licence and no further application should be considered until a period of 3-5 years free from convictions has elapsed.

Convictions or endorsements for the offences listed in Table 3 would normally merit the refusal of a Hackney Carriage or Private Hire Vehicle Drivers Licence where the date of conviction/endorsement was within the last five years or longer if specified elsewhere in this policy.

Code	Offence Detail
CD40	Causing death through careless driving when unfit through drink.
CD50	Causing death by careless driving when unfit through drugs.
CD60	Causing death by careless driving with alcohol level above the limit.
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis.
CD80	Causing death by careless, or inconsiderate, driving.
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers.
DD10	Causing serious injury by dangerous driving.
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD80	Causing death by dangerous driving.
DD90	Furious driving.
DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink.
DR30	Driving or attempting to drive then failing to supply a specimen for analysis.
DR31	Driving or attempting to drive then refusing to give permission for analysis of blood sample that was taken without consent due to incapacity.
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink.
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive.
DR70	Failing to provide specimen for breath test.
DR80	Driving or attempting to drive when unfit through drugs.
DR90	In charge of a vehicle when unfit through drugs.
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk).
MR19	Wilful failure to carry out the obligation placed on driver after being involved in a road accident (hit or run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver.
MR49	Driving a vehicle whilst disqualified.
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence.
UT50	Aggravated taking of a vehicle.

Where an applicant has such a conviction/endorsement, then no further application would be considered until a period of five years free of conviction has elapsed.

c) *Drunkenness*

1. *With motor vehicle.* A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of alcohol. An isolated incident should not necessarily debar an applicant but there is an expectation that applicants have had a period free of conviction of five years.

More than one conviction for these offences gives the Council serious doubts as to the applicant's fitness to hold a licence. At least five years should elapse (after the restoration of the driving licence) before an applicant may be considered for a licence. If there is any suggestion that the applicant is alcohol dependant, a special medical examination shall be arranged before the application is entertained. If the applicant is found to be alcohol dependant a period of five years should elapse after treatment is complete before a further licence application is considered.

2. *Not in motor vehicle.* An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions or a pattern for drunkenness could indicate a medical problem necessitating critical examination (see (1) above). In some cases, a warning may be sufficient, however.

Table 4 shows the period that we would reasonably consider applicants to be free of conviction. The "X" in a red box, means we would normally refuse an application; the "?" in an orange box indicates a period where an application would normally be refused where there is a pattern of offending or where a person is alcohol dependant; and the "✓" in a green box indicates where we would normally grant a licence.

Table 4										
Convictions – Driving Offences										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Minor Motoring Offences (Table 1)	?	?	?	✓	✓	✓	✓	✓	✓	✓
Major Motoring Offences (Table 2)	X	X	X	?	?	✓	✓	✓	✓	✓
Major Motoring Offences (Table 3)	X	X	X	X	X	?	?	✓	✓	✓
Drunkenness in a Motor Vehicle	X	X	X	X	X	?	?	?	?	?
Drunkenness not in a Motor Vehicle	?	?	?	✓	✓	✓	✓	✓	✓	✓

d) *Drugs*

An applicant with a conviction for a drug related offence should be required to show a period of at least three years free of

convictions/complaints before an application is entertained, or five years after detoxification treatment if he/she was an addict.

Where an applicant or licensed driver has been convicted of an offence or has been investigated following a complaint relating to dealing drugs, which has been upheld, then a substantial period free of convictions would normally be expected.

Table 5 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending or where a person has been addicted and has undergone detoxification; and the “✓” in a green box indicates where we would normally grant a licence.

Convictions - Drugs										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Possessing Controlled Drugs	X	X	X	?	?	?	?	✓	✓	✓
Possessing Controlled Drugs with Intent to Supply	X	X	X	X	X	X	X	?	?	?
Producing Controlled Drugs	X	X	X	X	X	X	X	?	?	?
Import Drugs	X	X	X	X	X	X	X	?	?	?
Driving under the Influence of Prescription Drugs	X	X	X	?	?	?	?	✓	✓	✓
Driving under the Influence of Drugs	X	X	X	X	X	X	X	?	?	?

e) *Indecency/Sexual Offences*

As Hackney Carriage and Private Hire Vehicle Drivers often carry unaccompanied passengers and vulnerable people, where an applicant has been convicted or has been investigated following a complaint for a sexual offence, indecent exposure, indecent assault, or importuning, which has been upheld, then the application should be refused until they can show a substantial period free of such offences.

Where a person has committed an offence which can be classified as Child Sexual Exploitation (CSE), due to the exploitative and cohesive nature of the offence or allegation, a serious view will be taken as to whether a licence should be granted. A significant period of time free of conviction would be expected, even where a similar offence or allegation might have been committed where it does not relate to CSE.

If more than one conviction of this kind or under circumstances where a serious crime of indecency or of a sexual nature has been committed, or where the applicant is on the Sex Offenders Register, the Sub-

Committee should give serious consideration as to whether or not a licence should be granted.

Table 6 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence.

Table 6										
Convictions - Indecency										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Indecent Exposure	X	X	X	X	X	X	X	?	?	?
Indecent Exposure to the Annoyance of Residents	X	X	X	X	X	X	X	?	?	?
Indecent Exposure with intent to insult a female	X	X	X	X	X	X	X	X	?	?
Unlawful Sexual Intercourse	X	X	X	X	X	X	?	?	?	?
Importuning	X	X	X	X	X	X	X	?	?	✓
Gross Indecency with a Female	X	X	X	X	X	X	X	X	X	X
Gross Indecency with a Male	X	X	X	X	X	X	X	X	X	X
Indecent Assault on a Female	X	X	X	X	X	X	X	X	X	X
Indecent Assault on a Child under 16 years of age	X	X	X	X	X	X	X	X	X	X
Living Off Immoral Earnings	X	X	X	X	X	X	X	?	?	?
Prostitution	X	X	X	X	X	?	?	✓	✓	✓
Possessing or Distributing Obscene Material	X	X	X	X	X	X	X	X	?	?
Buggery	X	X	X	X	X	X	X	X	X	X
Rape	X	X	X	X	X	X	X	X	X	X
Indecent or Nuisance Telephone Calls	X	X	X	X	X	?	?	?	✓	✓
Offences classified as CSE	X	X	X	X	X	X	X	X	X	X

f) *Violence*

As Hackney Carriage and Private Hire Vehicle Drivers maintain close contact with the public, a firm line should be taken with applicants who have been convicted or have been investigated following a complaint for grievous bodily harm, wounding or assault, which has been upheld. A significant period free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

Where a person has committed an offence which can be classified as Domestic Violence, due to the one to one nature of the offence, a serious view will be taken as to whether a licence should be granted. A significant period of time free of conviction would be expected, even

where a similar offence might have been committed outside of the domestic setting.

If someone has re-offended or has committed a serious offence of violence consideration should be given as to whether or not a licence should be granted.

Table 7 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application, the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending and the “✓” in a green box indicates where we would normally grant a licence.

Table 7										
Convictions - Violence										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Common Assault	X	X	X	X	?	?	?	✓	✓	✓
Assault, s47	X	X	X	?	?	?	✓	✓	✓	✓
Grievous Bodily Harm, s20	X	X	X	X	X	X	?	?	?	✓
Grievous Bodily Harm, s18	X	X	X	X	X	X	X	X	?	?
Assault Police	X	X	X	X	X	X	?	?	?	✓
Affray	X	X	X	?	?	?	✓	✓	✓	✓
Riot	X	X	X	X	X	X	X	X	X	X
Murder	X	X	X	X	X	X	X	X	X	X
Manslaughter	X	X	X	X	X	X	X	X	X	X
Manslaughter or Culpable Homicide while Driving	X	X	X	X	X	X	X	X	X	X
Using Threatening, Abusive Words or Behaviour	?	?	?	?	?	✓	✓	✓	✓	✓
Battery	X	X	X	?	?	?	✓	✓	✓	✓
Breach of the Peace	?	?	?	✓	✓	✓	✓	✓	✓	✓
Drunk and Disorderly	?	?	✓	✓	✓	✓	✓	✓	✓	✓
Common Assault - Aggravated	X	X	X	?	?	✓	✓	✓	✓	✓
Obstruction	X	X	?	?	✓	✓	✓	✓	✓	✓
Robbery	X	X	X	X	X	?	?	?	✓	✓
Possess Offensive Weapon	X	X	X	?	?	?	✓	✓	✓	✓
Possess Firearm	X	X	X	X	X	?	?	✓	✓	✓
Possess Firearm with intent	X	X	X	X	X	X	X	X	?	?
Criminal Damage	X	X	X	?	?	✓	✓	✓	✓	✓
Violent Disorder	X	X	X	X	X	X	?	?	✓	✓
Resist Arrest	X	X	X	?	?	✓	✓	✓	✓	✓
Arson	X	X	X	X	X	X	X	X	X	X
Offences classified as Domestic Violence	X	X	X	X	X	X	X	X	?	?

g) Dishonesty

Hackney Carriage and Private Hire Vehicle Drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers.

Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. For these reasons a serious view should be taken where an applicant has been convicted or has been investigated following a complaint involving dishonesty which has been upheld, and note whether there is a pattern. In general, a significant period free of conviction should be required before entertaining an application.

Table 8 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application, the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending and the “✓” in a green box indicates where we would normally grant a licence.

Convictions - Dishonesty										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Theft	X	X	X	?	?	?	✓	✓	✓	✓
Theft – Shoplifting	X	X	X	?	?	?	✓	✓	✓	✓
Theft – Employee	X	X	X	X	X	?	?	?	✓	✓
Theft – From Vehicle	X	X	X	?	?	?	✓	✓	✓	✓
Burglary & Theft - Dwelling	X	X	X	X	X	?	?	?	✓	✓
Burglary & Theft – Non Dwelling	X	X	X	?	?	?	✓	✓	✓	✓
Burglary & Theft – Aggravated	X	X	X	X	X	X	X	?	?	?
Fraudulent Use	X	X	X	X	X	?	?	?	✓	✓
Handling	X	X	X	?	?	?	✓	✓	✓	✓
Receiving	X	X	X	?	?	?	✓	✓	✓	✓
Forgery	X	X	X	?	?	?	?	?	✓	✓
Conspiracy to Defraud	X	X	X	?	?	?	✓	✓	✓	✓
Obtain Money by Deception	X	X	X	X	X	?	?	?	✓	✓
Obtain Money by Forged Instrument	X	X	X	X	X	?	?	?	✓	✓
Deception	X	X	X	?	?	?	✓	✓	✓	✓
False Accounting	X	X	X	?	?	?	✓	✓	✓	✓
False Statement to Obtain Benefit	X	X	X	X	X	?	?	?	✓	✓
Going Equipped	X	X	X	?	?	?	✓	✓	✓	✓
Taking/Driving or Attempt to Steal Vehicle	X	X	X	?	?	?	?	✓	✓	✓
Allow to be Carried in a Stolen Vehicle	X	X	X	?	?	?	✓	✓	✓	✓
Perverting the Course of Justice	X	X	X	X	X	?	?	?	✓	✓

h) Offences of more than one type (Driving/Drunkeness/Drugs/Indecency/Violence/Dishonesty) etc

Where a person has committed a number of offences under the various different headings, we will consider the general pattern of non-compliance with the law as a pattern of offending rather than being of a

similar type of offence. Depending on the mix and type of offences, the period clear of conviction that would be required can vary. In general, the period free of conviction should be that of the most serious offence taking into account the period of offending. The period free should go from the last offence but for the length of the most serious offence.

i) *Licensing Offences*

Driving a Hackney Carriage or Private Hire Vehicle is a privilege, one which requires the applicant to go through a number of checks and then behave within the legal requirements of the various pieces of legislation, byelaws, conditions and codes of conduct.

Breaches to the law regulating Hackney Carriage and Private Hire Licensing can have an impact on the safety of the public and non-compliance with the requirements is a cause for concern. Depending on the type of offence, a period free of conviction should be expected before a licence application is considered.

Table 9 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence.

Table 9										
Convictions – Licensing Offences										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Minor Licensing Offences	?	?	?	✓	✓	✓	✓	✓	✓	✓
Major Licensing Offences	X	X	X	?	?	✓	✓	✓	✓	✓
Unlicensed Driver, Vehicle or Operator Offences	X	X	X	X	X	?	?	✓	✓	✓
Failure to ensure the safety of a passenger	X	X	X	X	X	?	?	✓	✓	✓

For the purpose of this guidance, the difference between a minor and major offence can be seen within the Warning Point Scheme. Offences where drawing more than 9 points would be deemed to be major.

8.0 Determination of an Application where Non-Conviction Information has been disclosed by the Police

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

'Would you (as a member of the Licensing Committee or other person charged with the ability to grant a hackney carriage and/or private hire drivers 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?'

8.2 If the answer to this question (or a similar test) is an unqualified 'Yes', then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage/private hire drivers licence. So if members are not sure about an applicant then they cannot grant a licence

8.3 Where a person is barred from working with children or vulnerable adults, serious questions need to be asked as to a person's fitness and propriety. Where such a bar is applied then the Council would normally refuse an application, subject to a hearing and mitigating factors.

9.0 Fitness

9.1 Hackney Carriage and Private Hire Drivers are responsible for the safety of the passengers they convey. The fitness of a driver is essential for ensuring passenger safety. Where an applicant is presented before the Licensing (Miscellaneous) Sub-Committee for a medical reason, even where they have been declared as fit by their GP or by a GP who has access to their records, then members should consider if the applicant or driver should be conveying passengers for hire and reward.

9.2 Each case must be determined on its own merits. Even where a driver/applicant has been declared fit, members may still wish to limit the length of the licence or require a fresh medical certificate at regular intervals. In certain circumstances, a report from a consultant may be appropriate to ensure the safety of the public.

10.0 General

10.1 It is important to stress that the above examples constitute guidance only and that each case must be decided on its own merits.

10.2 A person with a relevant conviction for serious crime need not be permanently barred from obtaining a licence but, generally speaking, the applicant will be expected to remain free of conviction for a period, depending on the type of offence and the circumstances, before a licence is determined. Consideration should be given as to whether or not the offence is isolated and whether there are mitigating circumstances.

10.3 The overriding consideration should be the protection of the public.

11.0 Action available to the Sub-Committee

11.1. The options available to the Licensing (Miscellaneous) Sub-Committee are as follows:

- a) Issue the licence as applied for
- b) Issue the licence for a period less than 3 years
- c) Refuse the application for a licence
- d) Require a medical at shorter intervals

11.2 The warning points issued in accordance with **Schedule 1 of Appendix G** will not apply to new applications.



GUIDANCE TO MEMBERS

**Review and Applications to Renew Hackney Carriage &
Private Hire Vehicle Drivers Licences**

1.0 Introduction

- 1.1 This guidance was originally based on the Department of Transport Circular 2/92 and the Home Office Circular 13/92. In developing the guidance consideration has been given to the amendment to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 in March 2002 to include drivers of Hackney Carriages and Private Hire Vehicles and the Bichard Enquiry regarding the disclosure of non-conviction information on DBS Disclosures. The guidance was reviewed in 2014 to include a points scheme, which is used to determine if a person is “fit and proper” or “for any other reasonable cause” and to provide further clarification as to how motoring convictions and fixed penalties are dealt with.
- 1.2 The purpose of the guidance is to assist members and officers to determine the fitness of a licensed driver to hold a Hackney Carriage/Private Hire Vehicle Drivers Licence in accordance with The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

2.0 Background

- 2.1 North Lincolnshire Council is a registered body with the Disclosure and Barring Service, formally the Criminal Records Bureau.
- 2.2 It uses the **Disclosure and Barring Service, formally the Criminal Records Bureau (DBS)** to assess an individual’s suitability to drive a Hackney Carriage / Private Hire Vehicle.
- 2.3 The main objective is to obtain information to assist in establishing whether a person is a ‘fit and proper person’ under the Local Government (Miscellaneous Provisions) Act 1976 and to review a licence under section 61 of the said Act to consider if a person should hold a licence or if a licence should be renewed.
- 2.4 It also enables the Local Authority to attach any conditions to the granting of the licence, which it feels are necessary to protect members of the public.

3.0 Scope of Legislation

- 3.1 The Rehabilitation of Offenders Act was introduced in 1974 to help restore the reputation of persons who have been convicted of an offence but have since stayed on the right side of the law. In normal circumstances, if someone is sentenced to 30 months or less in prison, the conviction will become 'spent' after 7 years, beginning with the date of sentence, and would no longer need to be disclosed when applying for employment. However, applicants for certain occupations, including Hackney Carriage and Private Hire Drivers, will always be required to disclose all their previous convictions, regardless of whether or not they would normally be regarded as 'spent', and all relevant convictions can therefore be considered.

- 3.2 The Bichard Enquiry came following the Home Secretary's announcement that an independent inquiry would be held. This would consider the way in which the police handled intelligence and the vetting processes prior to Huntley being employed in a school.
- 3.3 Sir Michael Bichard, Rector of the London Institute and a former Permanent Secretary at the Department for Education and Employment, was appointed as Chairman of the inquiry.
- 3.4 Sir Michael Bichard looked into the events surrounding the Soham Murders of 2002 and in particular what was previously known about Huntley. The concern existed that professionals in Humberside were aware that Huntley had a history of sexual relationships with girls under the age of sixteen. However, this information did not appear to have been readily available and as a consequence when the school where Huntley was subsequently employed carried out its statutory checks on him nothing untoward came to light. Bichard made a number of recommendations, some of which affects the information, which is now disclosed on the DBS Disclosure that may not have appeared before.
- 3.5 On application to renew a licence every 3 years, a request is made to the DBS for a disclosure of any criminal record held in the name of the applicant prior to the grant of a licence.
- 3.6 An Enhanced Disclosure is requested, which contains the same details as a Standard Disclosure but may also contain non-conviction information from local police records, which a chief police officer thinks may be relevant in connection with the matter in question.
- 3.7 It is also a requirement that the applicant must submit their DVLA driving. Failure to do so will result in the application being incomplete.
- 3.8 A further DBS check can be requested by the Licensing Team at any time during a licence where there is reason to believe that the licence holder has been convicted of a further offence. Information may be received from many different sources such as, the public, trade, police or even in the local press regarding current Hackney Carriage/Private Hire Vehicle Drivers who have been convicted of an offence.

4.0 Magistrates Guidelines and the Committee

- 4.1 When the Magistrates convict a person, they act within their guidelines. According to the seriousness of the offence or exceptional hardship, a person might receive a more lenient sentence or be able to retain their drivers licence. Members cannot take these guidelines into consideration when they make their decision, nor should they consider exceptional hardship when deciding if a person is fit and proper to hold a licence. Members should restrict their deliberations to this guidance and determine each application on its merits.

5.0 Determination of Relevant Information / Convictions, by Board of Officers

- 5.1 As previously stated, applicants for Hackney Carriage & Private Hire Vehicle Drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974, and therefore all relevant convictions can be considered.
- 5.2 The legislation also allows the Licensing Authority to consider comments received by the Police relating to Hackney Carriage/Private Hire Vehicle Drivers, in situations where a conviction may or may not have been obtained. As all applicants for renewal or licensed Hackney Carriage/Private Hire Vehicle Drivers have the right to a fair and proper hearing, the members, in these circumstances, will have the opportunity to put questions to the applicant and the Police and clarify any issues raised in the DBS disclosure made by the police, at the Sub-Committee.
- 5.3 Where a DBS Disclosure, for the application or review of a drivers licence shows a Trace or is accompanied by any relevant police comments, an Assessment Board of Officers of the Licensing Division considers the nature of any offences or information provided by the Chief Police Officer. The date of the event, the age of the applicant and any other relevant factors will be considered to determine if it is relevant. In the event that the Assessment Board is not satisfied that the applicant is a "fit and proper" person, a recommendation is made to this Sub-Committee to determine the application.
- 5.4 On receipt of the application, disclosure and DVLA driving licence, the Licensing Officer will check the details. If convictions are disclosed and/or offences displayed on the driving licence, an Assessment Board, will be convened.
- 5.5 The Assessment Board will consider: -
- If the conviction or endorsement was declared,
 - The relevance of the offence,
 - Whether the disclosure reveals a pattern of behaviour,
 - The circumstances surrounding the offence and the explanation(s) offered by the applicant.
- 5.6 Where an applicant to renew a licence or a licence holder who has amassed 12 or more points under the Council's Warning Points Scheme, the said person will be referred to the Licensing (Miscellaneous) Sub-Committee to determine if they should remain a licence holder under any other reasonable cause in accordance with s61 of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.7 In more serious cases, a licensed driver may be referred to the Licensing (Miscellaneous) Sub-Committee without the attachment of points. In such cases, the Committee may attach points or take other action as they deem appropriate.

6.0 Role of the Licensing (Miscellaneous) Sub-Committee

6.1 The Members on the Sub-Committee are an impartial body who are appointed to hear and determine applications to renew Hackney Carriage and Private Hire Vehicle Drivers Licences and to review licences where a driver has either amassed more than 12 warning points or where there has been a complaint. When doing so they shall consider all information and determine each application on its merits, having taken into account this guidance.

6.2 In the case of applications to renew a licence or a review of a licence, the onus is on the Licensing Officer to show that on the balance of probability they are not a “fit and proper” person in accordance with s61 of the Act. Should they not be able to satisfy the Committee of this, then the licence should be allowed to continue or be renewed.

7.0 Determination of an Application to Renew where Convictions/Endorsements are disclosed

7.1 If the matters revealed are deemed relevant, the Assessment Board will refer the matter to the Licensing (Miscellaneous) Sub-Committee for determination. Certain types of offences will always be referred.

7.2 The following examples afford a general guide on the action to be taken where convictions are admitted.

a) *Minor traffic offences*

Convictions or fixed penalties for minor traffic offences should not prevent a person from holding a licence. The following offences, in Table 1 are deemed to be minor motoring convictions for the purpose of this guidance:

Table 1	
Code	Offence Detail
AC10	Failing to stop after an accident.
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence.
CU10	Using a vehicle with defective brakes.
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
CU30	Using a vehicle with defective tyres.
CU40	Using a vehicle with defective steering.
CU50	Causing or likely to cause danger by reason of load or passengers.
CU60	Undefined failure to comply with Construction and Use Regulations.
CU80	Breach or requirements as to control of the vehicle, mobile telephone etc.
LC10	Driving without a licence.
LC20	Driving otherwise than in accordance with a licence.
LC30	Driving after making a false declaration about fitness when applying for a licence.
LC40	Driving a vehicle having failed to notify a disability.
LC50	Driving after a licence has been revoked or refused on medical grounds.

MR39	Driving a vehicle faster than the permitted speed
MS10	Leaving a vehicle in a dangerous position.
MS20	Unlawful pillion riding.
MS30	Playstreet Offences
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle).
MS70	Driving with uncorrected defective eyesight.
MS80	Refusing to submit to an eye test.
MS90	Failure to give information as to identity of driver etc.
MW10	Contravention of special roads regulations (excluding speed limits).
PC10	Undefined contravention of pedestrian crossing regulations.
PC20	Contravention of pedestrian crossing regulations with moving vehicle.
PC30	Contravention of pedestrian crossing regulations with stationary vehicle.
SP10	Exceeding goods vehicle speed limit.
SP20	Exceeding speed limit for type of vehicle (Excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road.
SP40	Exceeding passenger vehicle speed limit.
SP50	Exceeding speed limit on a motorway.
TS10	Failing to comply with traffic light signals.
TS20	Failing to comply with double white lines.
TS30	Failing to comply with 'STOP' sign.
TS40	Failing to comply with direction of a constable/warden.
TS50	Failing to comply with traffic sign (excluding 'STOP' signs, traffic lights or double white lines).
TS60	Failing to comply with school crossing patrol.
TS70	Undefined failure to comply with traffic direction sign.

Where an endorsement is made for aiding, abetting, counselling or procuring offences (0 is replaced with 2, code LC20 becomes LC22); or causing or permitting offences (0 is replaced with 4, code LC20 becomes LC24); or inciting (0 is replaced with 6, code LC20 becomes LC26), these will also be deemed to be minor traffic offences.

Where an applicant or driver has accrued 12 or more points on their licence, that would be sufficient to require a period of disqualification of the applicant's driving licence, then members will normally consider either suspension or revocation of the licence, especially if there is a pattern of offending, for example of excessive speed. In such cases, it would be for the applicant/driver to state their mitigation to the Licensing (Miscellaneous) Sub-Committee as to why they are a fit and proper person or why they should be allowed to keep their licence.

b) Major traffic offences

An isolated conviction one of the offences listed in Table 2, for example for reckless driving or driving without due care and attention etc, should not normally merit either the refusal of an application to renew, or the suspension or revocation of a Hackney Carriage and/or Private Hire Vehicle Drivers Licence. Clarification should be sought as to the reason for the conviction and circumstances at the time of the offence should be taken into account.

Code	Offence Detail
BA10	Driving while disqualified by order of court.
BA30	Attempting to drive while disqualified by order of court.
CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
IN10	Using a vehicle uninsured against third party risks.
MS50	Motor racing on the highway.
TT99	Disqualification under totting-up.

More than one conviction or endorsement for this type of offence within the last three years would normally merit refusal of an application to renew or the revocation of a Hackney Carriage or Private Hire Vehicle Drivers licence and no further application should be considered until a period free from convictions has elapsed.

Convictions or endorsements for the offences listed in Table 3 would normally merit the revocation or immediate suspension of a hackney carriage or private hire vehicle drivers licence or the refusal of an application for renewal of a licence where the date of conviction/endorsement was within the last five years.

Code	Offence Detail
CD40	Causing death through careless driving when unfit through drink.
CD50	Causing death by careless driving when unfit through drugs.
CD60	Causing death by careless driving with alcohol level above the limit.
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis.
CD80	Causing death by careless, or inconsiderate, driving.
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers.
DD10	Causing serious injury by dangerous driving.
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD80	Causing death by dangerous driving.
DD90	Furious driving.
DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink.
DR30	Driving or attempting to drive then failing to supply a specimen for analysis.
DR31	Driving or attempting to drive then refusing to give permission for analysis of blood sample that was taken without consent due to incapacity.
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink.
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive.
DR70	Failing to provide specimen for breath test.
DR80	Driving or attempting to drive when unfit through drugs.
DR90	In charge of a vehicle when unfit through drugs.
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk).
MR19	Wilful failure to carry out the obligation placed on driver after being

	involved in a road accident (hit or run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver.
MR49	Driving a vehicle whilst disqualified.
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence.
UT50	Aggravated taking of a vehicle.

Where an applicant has such a conviction/endorsement, then no further application would be considered until a period free of conviction has elapsed.

c) *Drunkenness*

1. *With motor vehicle.* A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of alcohol. An isolated incident should not necessarily debar an applicant but there is an expectation that applicants have had a period free of conviction.

More than one conviction for these offences gives the Council serious doubts as to the applicant's fitness to hold a licence. A substantial period should elapse (after the restoration of the driving licence) before an applicant may be considered for a licence. If there is any suggestion that the applicant is alcohol dependant, a special medical examination shall be arranged before the application is entertained. If the applicant is found to be alcohol dependant, a period of five years should elapse after treatment is complete before a further licence application is considered.

2. *Not in motor vehicle.* An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions or a pattern for drunkenness could indicate a medical problem necessitating critical examination (see (1) above). In some cases, a warning may be sufficient, however.

Table 4 shows the period that we would reasonably consider applicants to be free of conviction. The "X" in a red box, means we would normally refuse an application; the "?" in an orange box indicates a period where an application would normally be refused where there is a pattern of offending or where a person is alcohol dependant; and the "✓" in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed driver should be allowed to continue to drive the public around in a vehicle.

Table 4										
Convictions – Driving Offences										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Minor Motoring Offences (Table 1)	?	?	?	✓	✓	✓	✓	✓	✓	✓
Major Motoring Offences (Table 2)	X	X	X	?	?	✓	✓	✓	✓	✓
Major Motoring Offences (Table 3)	X	X	X	X	X	?	?	✓	✓	✓
Drunkenness in a Motor Vehicle	X	X	X	X	X	?	?	?	?	?
Drunkenness not in a Motor Vehicle	?	?	?	✓	✓	✓	✓	✓	✓	✓

d) *Drugs*

An applicant with a conviction for a drug related offence should be required to show a period of at least three years free of convictions/complaints before an application is entertained, or five years after detoxification treatment if he/she was an addict.

Where an applicant or licensed driver has been convicted of an offence or has been investigated following a complaint relating to dealing drugs, which has been upheld, then a substantial period free of convictions would normally be expected.

Table 5 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed driver should be allowed to continue to drive the public around in a vehicle.

Table 5										
Convictions - Drugs										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Possessing Controlled Drugs	X	X	X	?	?	?	?	✓	✓	✓
Possessing Controlled Drugs with Intent to Supply	X	X	X	X	X	X	X	?	?	?
Producing Controlled Drugs	X	X	X	X	X	X	X	?	?	?
Import Drugs	X	X	X	X	X	X	X	?	?	?
Driving under the Influence of Prescription Drugs	X	X	X	?	?	?	?	✓	✓	✓
Driving under the Influence of Drugs	X	X	X	X	X	X	X	?	?	?

e) *Indecency/Sexual Offences*

As Hackney Carriage and Private Hire Vehicle Drivers often carry unaccompanied passengers. Where an applicant or licensed driver has been convicted or has been investigated following a complaint for a sexual offence, indecent exposure, indecent assault, or importuning, which has been upheld, then the application should be refused until they can show a substantial period free of such offences.

Where a person has committed an offence which can be classified as Child Sexual Exploitation (CSE), due to the exploitative and cohesive nature of the offence or allegation, a serious view will be taken as to whether a licence should be granted. A significant period of time free of conviction would be expected, even where a similar offence or allegation might have been committed where it does not relate to CSE.

If more than one conviction of this kind or under circumstances where a serious crime of indecency or of a sexual nature has been committed, or where the applicant is on the Sex Offenders Register, the Sub-Committee should give serious consideration as to whether or not a licence should be granted.

Table 6 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed driver should be allowed to continue to drive the public around in a vehicle.

Convictions - Indecency										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Indecent Exposure	X	X	X	X	X	X	X	?	?	?
Indecent Exposure to the Annoyance of Residents	X	X	X	X	X	X	X	?	?	?
Indecent Exposure with intent to insult a female	X	X	X	X	X	X	X	X	?	?
Unlawful Sexual Intercourse	X	X	X	X	X	X	?	?	?	?
Importuning	X	X	X	X	X	X	X	?	?	✓
Gross Indecency with a Female	X	X	X	X	X	X	X	X	X	X
Gross Indecency with a Male	X	X	X	X	X	X	X	X	X	X
Indecent Assault on a Female	X	X	X	X	X	X	X	X	X	X
Indecent Assault on a Child under 16 years of age	X	X	X	X	X	X	X	X	X	X
Living Off Immoral Earnings	X	X	X	X	X	X	X	?	?	?
Prostitution	X	X	X	X	X	?	?	✓	✓	✓
Possessing or Distributing Obscene Material	X	X	X	X	X	X	X	X	?	?

Buggery	X	X	X	X	X	X	X	X	X	X
Rape	X	X	X	X	X	X	X	X	X	X
Indecent or Nuisance Telephone Calls	X	X	X	X	X	?	?	?	✓	✓
Offences classified as CSE	X	X	X	X	X	X	X	X	X	X

f) *Violence*

As Hackney Carriage and Private Hire Vehicle Drivers maintain close contact with the public, a firm line should be taken with applicants or licensed drivers who have been convicted or have been investigated following a complaint for grievous bodily harm, wounding or assault, which has been upheld. Serious consideration should be given to revocation of the licence where a person has been convicted of such an offence.

Where a person has committed an offence which can be classified as Domestic Violence, due to the one to one nature of the offence, a serious view will be taken as to whether a licence should be granted. A significant period of time free of conviction would be expected, even where a similar offence might have been committed outside of the domestic setting.

If someone has re-offended or has committed a serious offence of violence consideration should be given as to whether or not a licence should be refused on application to renew or revoked.

Table 7 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed driver should be allowed to continue to drive the public around in a vehicle.

Table 7										
Convictions - Violence										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Common Assault	X	X	X	X	?	?	?	✓	✓	✓
Assault, s47	X	X	X	?	?	?	✓	✓	✓	✓
Grievous Bodily Harm, s20	X	X	X	X	X	X	?	?	?	✓
Grievous Bodily Harm, s18	X	X	X	X	X	X	X	X	?	?
Assault Police	X	X	X	X	X	X	?	?	✓	✓
Affray	X	X	X	?	?	?	✓	✓	✓	✓
Riot	X	X	X	X	X	X	X	X	X	X
Murder	X	X	X	X	X	X	X	X	X	X
Manslaughter	X	X	X	X	X	X	X	X	X	X
Manslaughter or Culpable	X	X	X	X	X	X	X	X	X	X

Homicide while Driving										
Using Threatening, Abusive Words or Behaviour	?	?	?	?	?	✓	✓	✓	✓	✓
Battery	X	X	X	?	?	?	✓	✓	✓	✓
Breach of the Peace	?	?	?	✓	✓	✓	✓	✓	✓	✓
Drunk and Disorderly	?	?	✓	✓	✓	✓	✓	✓	✓	✓
Common Assault - Aggravated	X	X	X	?	?	✓	✓	✓	✓	✓
Obstruction	X	X	?	?	✓	✓	✓	✓	✓	✓
Robbery	X	X	X	X	X	?	?	?	✓	✓
Possess Offensive Weapon	X	X	X	?	?	?	✓	✓	✓	✓
Possess Firearm	X	X	X	X	X	?	?	✓	✓	✓
Possess Firearm with intent	X	X	X	X	X	X	X	X	?	?
Criminal Damage	X	X	X	?	?	✓	✓	✓	✓	✓
Violent Disorder	X	X	X	X	X	X	?	?	✓	✓
Resist Arrest	X	X	X	?	?	✓	✓	✓	✓	✓
Arson	X	X	X	X	X	X	X	X	X	X
Offences classified as Domestic Violence	X	X	X	X	X	X	X	X	?	?

g) Dishonesty

Hackney Carriage and Private Hire Vehicle Drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. For these reasons a serious view should be taken where an applicant to renew or licensed driver has been convicted or has been investigated following a complaint involving dishonesty which has been upheld, and note whether there is a pattern. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

Table 8 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending or where a person is alcohol dependant; and the “✓” in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed driver should be allowed to continue to drive the public around in a vehicle.

Convictions - Dishonesty	Table 8
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Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Theft	X	X	X	?	?	?	✓	✓	✓	✓
Theft – Shoplifting	X	X	X	?	?	?	✓	✓	✓	✓
Theft – Employee	X	X	X	X	X	?	?	?	✓	✓
Theft – From Vehicle	X	X	X	?	?	?	✓	✓	✓	✓
Burglary & Theft - Dwelling	X	X	X	X	X	?	?	?	✓	✓
Burglary & Theft – Non Dwelling	X	X	X	?	?	?	✓	✓	✓	✓
Burglary & Theft – Aggravated	X	X	X	X	X	X	X	?	✓	✓
Fraudulent Use	X	X	X	X	X	?	?	?	✓	✓
Handling	X	X	X	?	?	?	✓	✓	✓	✓
Receiving	X	X	X	?	?	?	✓	✓	✓	✓
Forgery	X	X	X	?	?	?	?	?	✓	✓
Conspiracy to Defraud	X	X	X	?	?	?	✓	✓	✓	✓
Obtain Money by Deception	X	X	X	X	X	?	?	?	✓	✓
Obtain Money by Forged Instrument	X	X	X	X	X	?	?	?	✓	✓
Deception	X	X	X	?	?	?	✓	✓	✓	✓
False Accounting	X	X	?	?	?	?	✓	✓	✓	✓
False Statement to Obtain Benefit	X	X	X	X	X	?	?	?	✓	✓
Going Equipped	X	X	X	?	?	?	✓	✓	✓	✓
Taking/Driving or Attempt to Steal Vehicle	X	X	X	?	?	?	?	✓	✓	✓
Allow to be Carried in a Stolen Vehicle	X	X	X	?	?	?	✓	✓	✓	✓
Perverting the Course of Justice	X	X	X	X	X	?	?	?	✓	✓

h) Offences of more than one type (Driving/Drunkness/Drugs/Indecency/Violence/Dishonesty) etc

Where a person has committed a number of offences under the various different headings, we will consider the general pattern of non-compliance with the law as a pattern of offending rather than being of a similar type of offence. Depending on the mix and type of offences, the period clear of conviction that would be required can vary. In general, the period free of conviction should be that of the most serious offence taking into account the period of offending. The period free should go from the last offence but for the length of the most serious offence.

i) Licensing Offences

Driving a Hackney Carriage or Private Hire Vehicle is a privilege, one which requires the applicant to go through a number of checks and then behave within the legal requirements of the various pieces of legislation, byelaws, conditions and codes of conduct.

Breaches to the law regulating Hackney Carriage and Private Hire Licensing can have an impact on the safety of the public and non-compliance with the requirements is a cause for concern. Depending on the type of offence, a period free of conviction should be expected before an application to renew a licence is considered. Consideration

should be given to suspend or revoke a licence where the licensee has been convicted of an offence or where sufficient evidence is provided at a review.

Table 9 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence.

Table 9										
Convictions – Licensing Offences										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Minor Licensing	?	?	?	✓	✓	✓	✓	✓	✓	✓
Major Licensing Offences	X	X	X	?	?	✓	✓	✓	✓	✓
Unlicensed Driver, Vehicle or Operator Offences	X	X	X	X	X	?	?	✓	✓	✓
Failure to ensure the safety of a passenger	X	X	X	X	X	?	?	✓	✓	✓

For the purpose of this guidance, the difference between a minor and major offence can be seen within the Warning Point Scheme. Offences, where drawing more than 9 points, would be deemed to be major.

8.0 Determination of an Application where Non-Conviction Information has been disclosed by the Police or Following a Complaint

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

‘Would you (as a member of the licensing committee or other person charged with the ability to renew a hackney carriage and/or private hire drivers licence or review it) 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?’

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

8.3 Mr Justice Silber made an obiter observation in the case of *Leeds City Council v Hussain*. In the context of suspension of a drivers licence “for any other reasonable cause” he 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, therefore, 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.’

8.4 This test would support the test for fitness and propriety.

8.5 Where a person is barred from working with children or vulnerable adults, serious questions need to be asked as to a person’s fitness and propriety. Where such a bar is applied then the Council would normally refuse an application for a licence or revoke a vehicle drivers licence, subject to hearing and mitigating factors.

9.0 Fitness

9.1 Hackney Carriage and Private Hire Drivers are responsible for the safety of the passengers they convey. The fitness of a driver is essential for ensuring passenger safety. Where a licensed driver is presented before the Licensing (Miscellaneous) Sub-Committee for a medical reason, even where they have been declared as fit by their GP or by a GP who has access to their records, then members should consider if the driver should be conveying passengers for hire and reward.

9.2 Each case must be determined on its own merits. Even where a driver/applicant has been declared fit, members may still wish to limit the length of the licence or require a fresh medical certificate at regular intervals. In certain circumstances, a report from a consultant may be appropriate to ensure the safety of the public.

10.0 General

10.1 It is important to stress that the above examples constitute guidance only and that each case must be decided on its own merits.

10.2 A person with a relevant conviction for serious crime need not be permanently barred from obtaining a licence but, generally speaking, the applicant will be expected to remain free of conviction for a period of time, depending on the type of offence and the circumstances, before a licence is determined. Consideration should be given as to whether or not the offence is isolated and whether there are mitigating circumstances.

10.3 The overriding consideration should be the protection of the public.

11.0 Action available to the Sub-Committee

11.1 The options available to the Licensing (Miscellaneous) Sub-Committee are as follows:

- a) Take No Action
- b) Issue the Driver/Proprietor with a warning
- c) Endorse the Hackney Carriage/Private Hire Vehicle, Drivers and/or Operators Licence with warning points
- d) Require a medical or DBS check at shorter intervals than specified in the Hackney Carriage and Private Hire Licensing Policy
- e) Suspend the licence
- f) Suspend the licence subject to meeting a set criteria, e.g. passing a DSA test or knowledge test
- g) Revoke the licence
- h) Take other action as deemed appropriate
- i) Suspend the licence pending a further medical

11.2 The warning points scheme as attached as Appendix G will be used to fill a gap between issuing a warning to drivers, proprietors and operators. Where a person has amassed 12 valid points then the Council will determine if an applicant is a fit and proper person or review a licence for any other reasonable cause, with a view to refusing an application or revocation/suspension of a licence.

Schedule 1 to Appendix G specifies the points to be added for each offence, for both applicants and licence holders.

11.3 Where a person hits the 12 points as a result of the points awarded by the Licensing (Miscellaneous) Sub-Committee, they will then consider if the person should retain their licence under any other reasonable cause.



GUIDANCE TO MEMBERS

Appeal of Warning Points

1.0 Introduction

- 1.1 The Warning Points Scheme has been developed to address a gap between prosecution and doing nothing when a driver, operator or proprietor breaches the conditions attached to a licence, commits an offence or for any other reasonable cause.
- 1.2 The Warning Points Scheme in effect provides a warning about the behaviour of the driver, operator or proprietor. The main difference with it is that points awarded act as a trigger to review a licence but these points are time limited.
- 1.3 Section 8 of the Policy provides information to the Warning Points Scheme and further detail can be found in **Appendix G** and **Schedule 1** of the said appendix, including the number of points issued for breaches.

2.0 Background

- 2.1 The main purpose of an appeal against the warning points scheme is to determine if the driver, operator or proprietor to whom they were issued should have been issued with the points.
- 2.2 There are only certain grounds that an appeal will be considered for. These grounds are:
 - The person did not commit the offence or breach; or
 - They could not reasonably be expected to know that it was an offence or breach; or
 - It was a case of mistaken identity
- 2.3 Members should not consider any other matters when considering an appeal save for the grounds mentioned.

3.0 Scope of the Legislation

- 3.1 Licences for Hackney Carriage and Private Hire Drivers, Vehicles and Operators are issued in accordance with the provisions contained within the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 Under these Acts, where an infringement is committed we may either prosecute an offender or review their licence. Where the infringement or breach is less serious neither of these options would be suitable, but then nor would the option of doing nothing. The accumulation of points does not in itself constitute formal action to be taken, rather it is an administrative process that triggers a review once 12 or more points have been attached to a person's record. Separate Guidance has been developed to deal with reviews.

4.0 Decision to Issue Warning Points

4.1 Before warning points are issued an investigation should be carried out and evidence gathered to show that on the balance of probability, the person committed the offence or breach. If the Officer cannot satisfy the evidential test then warning points should not be awarded.

5.0 Appeal of Warning Points

5.1 Where an appeal is being considered, the Member hearing the appeal will consider the evidence presented by the Licensing Officer following the investigation and then hear from the licence holder who received the warning points. Should the person not be in attendance, then the member may defer the hearing to allow attendance or dismiss the appeal.

5.2 When reviewing the evidence presented, the member should review the following:

- Statements provided
- Letters of Complaint
- Interview transcript, if any
- Photographs, if any
- Videos, if any
- Other documentation or media

5.3 The member should be impartial when considering the information, considering all the evidence presented and the testimony provided. The member should not take into consideration matters relating to other courses of action that could be taken.

5.4 If the Member is satisfied that the person does deserve the warning, then the appeal should be denied. Only where the member is satisfied that the driver, operator or proprietor can prove that they meet the criteria detailed in paragraph 2.2 of this guidance should the appeal be upheld.

5.5 Where a person admits the breach and that they knew it was an offence, the appeal should be dismissed irrespective of any mitigation. Mitigation of this sort should be reserved for a hearing before the Licensing (Miscellaneous) Sub-Committee, who will take into account this information should they need to do so.

6.0 General

6.1 It is important to stress that this document constitutes guidance only and that each case must be determined on its own merits.

6.2 The Members should remember that the Warning Points Scheme is a warning that does not include any financial or punitive penalty. Should a person amass 12 or more points they are entitled to a hearing before the Licensing

(Miscellaneous) Sub-Committee, where they can present their mitigation. It is this bodies role to consider the fitness and propriety of a person and to consider if they should be able to hold a licence.

7.0 Action available to the Member Hearing the Appeal

7.1 The options available to the Member hearing the appeal are as follows:

- Uphold the appeal
- Refuse the appeal

7.2 The Member hearing the appeal might consider the action taken as inappropriate, they may consider it to be too harsh or lenient. This is not a matter for the appeal hearing as the said person may be referred to the Sub-Committee at a future date, where it can be considered.

8.0 Appeal Decision

8.1 Following the appeal hearing, the Member shall provide a written decision record. The Authorised Officer shall provide assistance with the decision record.



GUIDANCE TO MEMBERS

**Applications and Reviews of Private Hire Operators
Licences**

1.0 Introduction

- 1.1 This guidance was originally based on the Department of Transport Circular 2/92 and the Home Office Circular 13/92, which was developed to deal with applications and reviews for Hackney Carriage and Private Hire Vehicle Drivers. As the criteria for drivers and operators differs, we have determined that it is appropriate to develop additional guidance. When considering an application for a drivers licence, consideration has been given to the amendment to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 in March 2002 to include drivers of Hackney Carriages and Private Hire Vehicles and the Bichard Enquiry regarding the disclosure of non-conviction information on Criminal Record Disclosures. When dealing with operators we cannot take into account the same information as they are not exempt in the same way. The guidance was developed to consider the warning points scheme and to determine if a person is “fit and proper” or “for any other reasonable cause” and to provide further clarification as to how motoring convictions and fixed penalties are dealt with.
- 1.2 The purpose of the guidance is to assist members and officers to determine the fitness of an applicant to hold a Private Hire Operators Licence in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

2.0 Background

- 2.1 North Lincolnshire Council is a registered body with the Disclosure and Barring Service, formally the Criminal Records Bureau.
- 2.2 It uses the **Disclosure and Barring Service, formally the Criminal Records Bureau (DBS)** to assess an individual’s suitability to drive a Hackney Carriage / Private Hire Vehicle. It cannot use this same information to determine an application for a Private Hire Operators Licence. Therefore, we require applicants for such a licence to submit a Basic Disclosure which details unspent convictions.
- 2.3 The main objective is to obtain information to assist in establishing whether a person is a ‘fit and proper person’ under the Local Government (Miscellaneous Provisions) Act 1976.
- 2.4 It also enables the local authority to attach any conditions to the granting of the licence, which it feels are necessary to protect members of the public.

3.0 Scope of Legislation

- 3.1 The Rehabilitation of Offenders Act was introduced in 1974 to help restore the reputation of persons who have been convicted of an offence but have since stayed on the right side of the law. In normal circumstances, if someone is sentenced to 30 months or less in prison, the conviction will become 'spent' after 7 years, beginning with the date of sentence, and would no longer need to be disclosed when applying for employment. This is the case for people applying for a Private Hire Operators Licence.

- 3.2 The Bichard Enquiry came following the Home Secretary's announcement that an independent inquiry would be held. This would consider the way in which the police handled intelligence and the vetting processes prior to Huntley being employed in a school.
- 3.3 Sir Michael Bichard, Rector of the London Institute and a former Permanent Secretary at the Department for Education and Employment, was appointed as Chairman of the inquiry.
- 3.4 Sir Michael Bichard looked into the events surrounding the Soham Murders of 2002 and in particular what was previously known about Huntley. The concern existed that professionals in Humberside were aware that Huntley had a history of sexual relationships with girls under the age of sixteen. However, this information did not appear to have been readily available and as a consequence when the school where Huntley was subsequently employed carried out its statutory checks on him nothing untoward came to light. Bichard made a number of recommendations, some of which affects the information, which is now disclosed on the DBS Disclosure that may not have appeared before.
- 3.5 When determining an application for a Private Hire Operators Licence we will consider any unspent convictions that are deemed relevant and any non-conviction information, including complaints.
- 3.6 On initial application for a licence, and upon application to renew a licence every 5 years, a basic disclosure of any criminal record held in the name of the applicant prior to the grant of a licence must be submitted.
- 3.7 A further basic disclosure can be requested by the Licensing Authority at any time during a licence where there is reason to believe that the licence holder has been convicted of a further offence. Information may be received from many different sources such as, the public, trade, police or even in the local press regarding current licence holders who have been convicted of an offence.

4.0 Magistrates Guidelines and the Committee

- 4.1 When Magistrates convict a person, they act within their guidelines. According to the seriousness of the offence or exceptional hardship, a person might receive a more lenient sentence or be able to retain their drivers licence. Members cannot take these guidelines into consideration when they make their decision, nor should they consider exceptional hardship when deciding if a person is fit and proper to hold a licence. Member should restrict their deliberations to this guidance and determine each application on its merits.

5.0 Determination of Relevant Information / Convictions, by Board of Officers

5.1 As previously stated, applicants for Private Hire Operators Licences are not exempt from the provisions of the Rehabilitation of Offenders Act 1974, and therefore only relevant unspent convictions can be considered.

5.2 Where a disclosure, for the application or review of an operator's licence shows a Trace, an Assessment Board of Officers of the Licensing Team considers the nature of any offences. The date of the event, the age of the applicant and any other relevant factors will be considered to determine if it is relevant. In the event that the Assessment Board is not satisfied that the applicant is a "fit and proper" person, a recommendation is made to this Sub-Committee to determine the application.

6.0 Determination of Application where Convictions/Endorsements are disclosed

6.1 If the matters revealed are deemed relevant, the Assessment Board will refer the matter to the Licensing (Miscellaneous) Sub-Committee for determination. Certain types of offences will always be referred.

6.2 The following examples afford a general guide on the action to be taken where convictions are admitted.

a. *Minor traffic offences*

Convictions for minor traffic offences should not prevent a person from proceeding with an application. The following offences, in Table 1 are deemed to be minor motoring convictions for the purpose of this guidance:

Code	Offence Detail
CU10	Using a vehicle with defective brakes.
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
CU30	Using a vehicle with defective tyres.
CU40	Using a vehicle with defective steering.
CU50	Causing or likely to cause danger by reason of load or passengers.
CU60	Undefined failure to comply with Construction and Use Regulations.
LC30	Driving after making a false declaration about fitness when applying for a licence.
MS90	Failure to give information as to identity of driver etc.

Where an applicant or operator has been convicted of such an offence, then clarification should be sought. Operators are responsible for fleets of vehicles used to convey the public and we have a duty to ensure that they are conveyed safely.

b. Major traffic offences

An isolated conviction, one of the offences listed in Table 2, for example for reckless driving or driving without due care and attention etc, should not normally merit either the refusal of an application or the suspension or revocation of a Private Hire Operators Licence. Clarification should be sought as to the reason for the conviction and circumstances at the time of the offence should be taken into account.

		Table 2
Code	Offence Detail	
BA10	Driving while disqualified by order of court.	
BA30	Attempting to drive while disqualified by order of court.	
CD40	Causing death through careless driving when unfit through drink.	
CD50	Causing death by careless driving when unfit through drugs.	
CD60	Causing death by careless driving with alcohol level above the limit.	
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis.	
CD80	Causing death by careless, or inconsiderate, driving.	
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers.	
DD10	Causing serious injury by dangerous driving.	
DD40	Dangerous driving.	
DD60	Manslaughter or culpable homicide while driving a vehicle.	
DD80	Causing death by dangerous driving.	
DD90	Furious driving.	
DR10	Driving or attempting to drive with alcohol level above limit.	
DR20	Driving or attempting to drive while unfit through drink.	
DR30	Driving or attempting to drive then failing to supply a specimen for analysis.	
DR31	Driving or attempting to drive then refusing to give permission for analysis of blood sample that was taken without consent due to incapacity.	
DR40	In charge of a vehicle while alcohol level above limit.	
DR50	In charge of a vehicle while unfit through drink.	
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive.	
DR70	Failing to provide specimen for breath test.	
DR80	Driving or attempting to drive when unfit through drugs.	
DR90	In charge of a vehicle when unfit through drugs.	
IN10	Using a vehicle uninsured against third party risks.	
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk).	
MR19	Wilful failure to carry out the obligation placed on driver after being involved in a road accident (hit or run)	
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver.	
MR49	Driving a vehicle whilst disqualified.	
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence.	
UT50	Aggravated taking of a vehicle.	

Operators are responsible for a fleet of vehicles and should ensure that the drivers and vehicles used are to the highest standards. Where an applicant has more than one offence of this type, then no further application would be considered until a period of three years free of conviction has elapsed.

c. Drunkenness

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of alcohol. An isolated incident should not necessarily debar an applicant, as an operator should not be driving a vehicle without a Private Hire Vehicle Drivers Licence.

More than one conviction for these offences gives the Council serious doubts as to the applicant's fitness to hold a licence. Operators are responsible for a fleet of vehicles and should ensure that the drivers and vehicles used are to the highest standards. Where an operator has more than one conviction of this type, at least three years should elapse before an applicant may be considered for a licence.

Table 3 shows the period that we would reasonably consider applicants to be free of conviction. The "X" in a red box, means we would normally refuse an application; the "?" in an orange box indicates a period where an application would normally be refused where there is a pattern of offending or where a person is alcohol dependant; and the "✓" in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed operator should be allowed to continue to operate a business where they must ensure the safety of the public being conveyed in licensed vehicles.

Table 3										
Convictions – Driving Offences										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Minor Motoring Offences (Table 1)	?	?	?	✓	✓	✓	✓	✓	✓	✓
Major Motoring Offences (Table 2)	?	?	?	?	?	✓	✓	✓	✓	✓
Drunkenness	?	?	?	✓	✓	✓	✓	✓	✓	✓

d. Drugs

An applicant with a conviction for a drug related offence should be required to show a period free of convictions/complaints before an application is entertained, or after detoxification treatment if he/she was an addict.

Where an applicant or licensed operator has been convicted of an offence or has been investigated following a complaint relating to dealing drugs, which has been upheld, then a substantial period free of convictions would normally be expected.

Table 4 shows the period that we would reasonably consider applicants to be free of conviction. The "X" in a red box, means we would normally refuse an application; the "?" in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the "✓"

in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed operator should be allowed to continue to operate a business where they must ensure the safety of the public being conveyed in licensed vehicles.

Table 4										
Convictions - Drugs										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Possessing Controlled Drugs	X	X	X	?	?	?	?	✓	✓	✓
Possessing Controlled Drugs with Intent to Supply	X	X	X	X	X	X	X	?	?	?
Producing Controlled Drugs	X	X	X	X	X	X	X	?	?	?
Import Drugs	X	X	X	X	X	X	X	?	?	?

e) *Indecency/Sexual Offences*

A Private Hire Operator runs a business where vehicles and drivers often carry unaccompanied passengers or where they return vulnerable adults and children to premises. Where an applicant or operator has been convicted or has been investigated following a complaint for a sexual offence, indecent exposure, indecent assault, or importuning, which has been upheld, then the application should be refused until they can show a substantial period free of such offences.

If more than one conviction of this kind or under circumstances where a serious crime of indecency or of a sexual nature has been committed, or where the applicant is on the Sex Offenders Register, the Sub-Committee should give serious consideration as to whether or not a licence should be granted.

Table 5 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse and application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed operator should be allowed to continue to operate a business where they must ensure the safety of the public being conveyed in licensed vehicles.

Table 5										
Convictions - Indecency										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Indecent Exposure	X	X	X	X	X	X	X	?	?	?
Indecent Exposure to the Annoyance of Residents	X	X	X	X	X	X	X	?	?	?

Indecent Exposure with intent to insult a female	X	X	X	X	X	X	X	X	?	?
Unlawful Sexual Intercourse	X	X	X	X	X	X	?	?	?	?
Importuning	X	X	X	X	X	X	X	?	?	✓
Gross Indecency with a Female	X	X	X	X	X	X	X	X	X	X
Gross Indecency with a Male	X	X	X	X	X	X	X	X	X	X
Indecent Assault on a Female	X	X	X	X	X	X	X	X	X	X
Indecent Assault on a Child under 16 years of age	X	X	X	X	X	X	X	X	X	X
Living Off Immoral Earnings	X	X	X	X	X	X	X	?	?	?
Prostitution	X	X	X	X	X	?	?	✓	✓	✓
Possessing or Distributing Obscene Material	X	X	X	X	X	X	X	X	?	?
Buggery	X	X	X	X	X	X	X	X	X	X
Rape	X	X	X	X	X	X	X	X	X	X
Indecent or Nuisance Telephone Calls	X	X	X	X	X	?	?	?	✓	✓
Offences classified as CSE	X	X	X	X	X	X	X	X	X	X

f) *Violence*

As Operators can maintain close contact with the public, a firm line should be taken with applicants or operators who have been convicted or have been investigated following a complaint for grievous bodily harm, wounding or assault, which has been upheld. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

If someone has re-offended or has committed a serious offence of violence consideration should be given as to whether or not a licence should be granted.

Table 6 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse and application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed operator should be allowed to continue to operate a business where they must ensure the safety of the public being conveyed in licensed vehicles.

Table 6										
Convictions - Violence										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Common Assault	X	X	X	X	?	?	?	✓	✓	✓

Assault, s47	X	X	X	?	?	?	✓	✓	✓	✓
Grievous Bodily Harm, s20	X	X	X	X	X	X	?	?	?	✓
Grievous Bodily Harm, s18	X	X	X	X	X	X	X	X	?	?
Assault Police	X	X	X	X	X	X	?	?	?	✓
Affray	X	X	X	?	?	?	✓	✓	✓	✓
Riot	X	X	X	X	X	X	X	X	X	X
Murder	X	X	X	X	X	X	X	X	X	X
Manslaughter	X	X	X	X	X	X	X	X	X	X
Manslaughter or Culpable Homicide while Driving	X	X	X	X	X	X	X	X	X	X
Using Threatening, Abusive Words or Behaviour	?	?	?	?	?	✓	✓	✓	✓	✓
Battery	X	X	X	?	?	?	✓	✓	✓	✓
Breach of the Peace	?	?	?	✓	✓	✓	✓	✓	✓	✓
Drunk and Disorderly	?	?	✓	✓	✓	✓	✓	✓	✓	✓
Common Assault - Aggravated	X	X	X	?	?	✓	✓	✓	✓	✓
Obstruction	X	X	?	?	✓	✓	✓	✓	✓	✓
Robbery	X	X	X	X	X	?	?	?	✓	✓
Possess Offensive Weapon	X	X	X	?	?	?	✓	✓	✓	✓
Possess Firearm	X	X	X	X	X	?	?	✓	✓	✓
Possess Firearm with intent	X	X	X	X	X	X	X	X	?	?
Criminal Damage	X	X	X	?	?	✓	✓	✓	✓	✓
Violent Disorder	X	X	X	X	X	X	?	?	✓	✓
Resist Arrest	X	X	X	?	?	✓	✓	✓	✓	✓
Arson	X	X	X	X	X	X	X	X	X	X
Offences classified as Domestic Violence	X	X	X	X	X	X	X	X	?	?

g) *Dishonesty*

Private Hire Operators are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest operator or driver to defraud the public or target businesses or customers when they know they are away from their premises. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous operator or driver. For these reasons a serious view should be taken where an applicant or licensed operator has been convicted or has been investigated following a complaint involving dishonesty which has been upheld, and note whether there is a pattern. In general, a significant period free of conviction should be required before entertaining an application.

Table 7 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence. Where a licence would normally be refused, the question should be asked as to if a licensed operator should be allowed to continue to operate a business where they must ensure the safety of the public being conveyed in licensed vehicles.

Table 7
Convictions - Dishonesty

Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Theft	X	X	X	?	?	?	✓	✓	✓	✓
Theft – Shoplifting	X	X	X	?	?	?	✓	✓	✓	✓
Theft – Employee	X	X	X	X	X	?	?	?	✓	✓
Theft – From Vehicle	X	X	X	?	?	?	✓	✓	✓	✓
Burglary & Theft - Dwelling	X	X	X	X	X	?	?	?	✓	✓
Burglary & Theft – Non Dwelling	X	X	X	?	?	?	✓	✓	✓	✓
Burglary & Theft – Aggravated	X	X	X	X	X	X	X	?	?	?
Fraudulent Use	X	X	X	X	X	?	?	?	✓	✓
Handling	X	X	X	?	?	?	✓	✓	✓	✓
Receiving	X	X	X	?	?	?	✓	✓	✓	✓
Forgery	X	X	X	?	?	?	?	?	✓	✓
Conspiracy to Defraud	X	X	X	?	?	?	✓	✓	✓	✓
Obtain Money by Deception	X	X	X	X	X	?	?	?	✓	✓
Obtain Money by Forged Instrument	X	X	X	X	X	?	?	?	✓	✓
Deception	X	X	X	?	?	?	✓	✓	✓	✓
False Accounting	X	X	X	?	?	?	✓	✓	✓	✓
False Statement to Obtain Benefit	X	X	X	X	X	?	?	?	✓	✓
Going Equipped	X	X	X	?	?	?	✓	✓	✓	✓
Taking/Driving or Attempt to Steal Vehicle	X	X	X	?	?	?	?	✓	✓	✓
Allow to be Carried in a Stolen Vehicle	X	X	X	?	?	?	✓	✓	✓	✓
Perverting the Course of Justice	X	X	X	X	X	?	?	?	✓	✓

h) Offences of more than one type (Driving/Drunkness/Drugs/Indecency/Violence/Dishonesty) etc

Where a person has committed a number of offences under the various different headings, we will consider the general pattern of non-compliance with the law as a pattern of offending rather than being of a similar type of offence. Depending on the mix and type of offences, the period clear of conviction that would be required can vary. In general, the period free of conviction should be that of the most serious offence taking into account the period of offending. The period free should go from the last offence but for the length of the most serious offence.

i) Licensing Offences

Driving a Hackney Carriage or Private Hire Vehicle is a privilege, one which requires the applicant to go through a number of checks and then behave within the legal requirements of the various pieces of legislation, byelaws, conditions and codes of conduct.

Breaches to the law regulating Hackney Carriage and Private Hire Licensing can have an impact on the safety of the public and non-compliance with the requirements is a cause for concern. Depending on the type of offence, a period free of conviction should be expected before an application to renew a licence is considered. Consideration should be given to suspend or revoke a

licence where the licensee has been convicted of an offence or where sufficient evidence is provided at a review.

Table 9 shows the period that we would reasonably consider applicants to be free of conviction. The “X” in a red box, means we would normally refuse an application; the “?” in an orange box indicates a period where an application would normally be refused where there is a pattern of offending; and the “✓” in a green box indicates where we would normally grant a licence.

Convictions – Licensing Offences										
Type of Offence	Date Since Conviction Received (Years or Part Thereof free of Conviction)									
	1	2	3	4	5	6	7	8	9	10
Minor Licensing Offences	?	?	?	✓	✓	✓	✓	✓	✓	✓
Major Licensing Offences	X	X	X	?	?	✓	✓	✓	✓	✓
Unlicensed Driver, Vehicle or Operator Offences	X	X	X	X	X	?	?	✓	✓	✓
Failure to ensure the safety of a passenger	X	X	X	X	X	?	?	✓	✓	✓

For the purpose of this guidance, the difference between a minor and major offence can be seen within the Warning Point Scheme. Offences where drawing more than 9 points would be deemed to be major.

7.0 Determination of an Application where Non-Conviction Information has been disclosed by the Police

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

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage and/or private hire drivers 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?’

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

7.3 Mr Justice Silber made an obiter observation in the case of *Leeds City Council v Hussain*. In the context of suspension of a drivers licence “for any other reasonable cause” he 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, therefore, is to prevent licenses 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.'

7.4 This test would support the test for fitness and propriety.

7.5 Where a person is barred from working with children or vulnerable adults, serious questions need to be asked as to a person's fitness and propriety. Where such a bar is applied then the Council would normally refuse an application for a licence or revoke an operators licence, subject to a hearing and mitigating factors.

8.0 General

8.1 It is important to stress that the above examples constitute guidance only and that each case must be decided on its own merits.

8.2 A person with a relevant conviction for serious crime need not be permanently barred from obtaining a licence but, generally speaking, the applicant will be expected to remain free of conviction for a period of time, depending on the type of offence and the circumstances, before a licence is determined. Consideration should be given as to whether or not the offence is isolated and whether there are mitigating circumstances.

8.3 The overriding consideration should be the protection of the public.

9.0 Action available to the Sub-Committee

9.1 The options available to the Licensing (Miscellaneous) Sub-Committee are as follows:

- a) Take No Action
- b) Issue the Operator with a warning
- c) Endorse the Hackney Carriage/Private Hire Vehicle, Drivers and/or Operators Licence with warning points
- d) Require a basic disclosure at shorter intervals than specified in the Hackney Carriage and Private Hire Licensing Policy
- e) Suspend the licence
- f) Suspend the licence subject to meeting a set criteria
- g) Add additional conditions to the licence
- h) Revoke the licence
- i) Take other action as deemed appropriate

9.2 The warning points scheme as attached as Appendix G will be used to fill a gap between issuing a warning to drivers, proprietors and operators. Where a person has amassed 12 valid points then the Council will determine if an applicant is a fit and proper person or review a licence for any other

reasonable cause, with a view to refusing an application or revocation/suspension of a licence.

Schedule 1 to Appendix G specifies the points to be added for each offence, for both applicants and licence holders.



**Hackney Carriage and Private Hire (Taxi)
Driver Standards Test**

1.0 Driving Assessment for Hackney Carriage and Private Hire Drivers

1.1 In accordance with this Policy, where a new applicant for a Hackney Carriage or Private Hire Vehicle Drivers Licence shows that they have six or more points on their DVLA driving licence, or have been banned from driving in the last three years for totting up, or five years for serious road traffic offences, that applicant will be required to undertake the Driving Assessment (Taxi Driver) Test before a licence will be issued.

1.2 In such cases, an applicant is required to pass a Hackney Carriage/Private Hire driving assessment before we will consider granting you a licence.

1.3 Assessments are carried out by North Lincolnshire Council examiners. The assessment is more demanding than the learner drivers test, and contains elements that relate specifically to driving a Hackney Carriage and Private Hire Vehicle.

2.0 Driving assessments and general requirements for getting a Hackney Carriage or Private Hire Drivers' Licence - General requirements

2.1 Before you can apply for a Hackney Carriage and/or Private Hire Vehicle Drivers Licence, you must:

- Be able to work legally in the UK
- Have held a full UK or EU driver's licence for at least 12 months

2.2 Other requirements for getting your licence include:

- A Disclosure and Barring Service Certificate
- A Medical
- A Knowledge Test

2.3 Full details of the application process are included in **paragraph 20** of this policy.

3.0 How to book your taxi or private hire vehicle assessment

3.1 Driver assessments are carried out by the North Lincolnshire Council test centre. To book the assessment you will need your driver number from one of the following licences:

- A full UK or Northern Ireland photo card licence and check code
- A full British old style paper licence
- A recognisable full European Union (EU) licence

3.2 You can book your assessment over the phone, by contacting the examiner at the test centre on 07812 739665.

4.0 What the Private Hire/Hackney Carriage Driving assessment involves

4.1 The standard of the Hackney Carriage/Private Hire driving assessment is set at a level suitable for full driving licence holders. It is more demanding than the learner test.

4.2 Before the assessment, you are advised to:

- Take lessons with a professional driving instructor
- Read the Highway Code
- Familiarise yourself with the content of the assessment

5.0 The eyesight test

5.1 At the start of your practical assessment, you will be asked to read, in good daylight, a vehicle registration number fixed to a motor vehicle with letters and figures 79.4 millimetres high at a distance of 20.5 metres (20 metres for a new-style number plate). You can use glasses or contact lenses if you wear them.

5.2 If you fail the eyesight test, you will be unable to take the driving part of the assessment. However, you will be able to continue with the wheelchair section if appropriate.

6.0 The practical assessment

6.1 The practical assessment will last for about 35 to 40 minutes, depending on traffic. Some elements are specific to taxi driving, such as:

- A taxi manoeuvre
- The requirement to stop in a safe position as if picking up or dropping off passengers

6.2 The driving assessment will include approximately ten minutes of independent driving where you will be asked to drive without examiner guidance.

6.3 To pass the assessment, no more than nine errors are permitted. Serious or dangerous errors will result in failure of the assessment.

6.4 You will be assessed on:

- Awareness and anticipation
- Effective planning of prevailing road and traffic conditions
- Correct use of speed
- Observation and mirror use
- Control of the vehicle
- Passenger safety and comfort

The assessment will include:

- A taxi manoeuvre where you will be asked to turn your vehicle to face to opposite direction.
- Approximately ten minutes of independent driving.
- Stops at the side of the road if a passenger is getting in or out of the vehicle.
- Related 'cabology' questions. Examples may include the dimensions of your vehicle, tyre pressures and what to do if a passenger leaves property in your vehicle.
- Questions from the Highway Code and identification of a number of traffic signs and road markings.

6.5 Your assessment may include (if you have a wheelchair accessible vehicle):

- An emergency stop
- A wheelchair exercise (if you requested the enhanced assessment – see information below)

7.0 The wheelchair exercise for taxis and private hire vehicles

7.1 If you have requested the enhanced assessment, it will include a wheelchair exercise for which you need to provide a wheelchair accessible vehicle.

7.2 You will need to demonstrate:

- The ability to safely load and unload the wheelchair in your vehicle
- That you can secure and unsecure the wheelchair using the brakes
- Fasten the seatbelts or safety harness
- Secure any wheel belts or clamps fitted to your vehicle

8.0 What happens at the end of the Hackney Carriage/Private Hire Drivers' assessment

8.1 When you pass your taxi assessment, you will receive:

- A copy of your assessment
- Offer of a debrief from the examiner

8.2 When you pass your wheelchair assessment, you will receive:

- A copy of your assessment
- Offer of a debrief from the examiner

8.3 If you fail the assessment, you must wait a minimum period of three clear working days before you retake. Saturday counts as a working day.

9.0 Fees for taking the taxi assessment

- 9.1 You may have been asked to pass the driving assessment by the Licensing Team before you can be granted a licence. Your practical assessment fee will vary depending on the type of assessment required. Please contact the test centre for details of the fee to be charged. The contact details can be found in **Appendix A**.



**Hackney Carriage and Private Hire
Warning Points Scheme**

WARNING POINTS SCHEME

1.0 The details of how the scheme will be operated are as follows:

- 1.1 The Licensing Business Compliance and Support Policy will be fully considered by an Authorised Officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
- 1.2 The Warning Points Scheme will operate without prejudice to the Licensing Authority's ability to take other action under appropriate legislation or as provided for by this policy.
- 1.3 The Warning Points Scheme outlined in Schedule 1 identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven and by whom.

2.0 Imposition of Points

- 2.1 Where it is decided that the use of the Warning Points Scheme is appropriate, the points will be issued in accordance with Schedule 1 to this Appendix. The issue of the points is in effect a warning, with the scheme bridging the gap between doing nothing and prosecution, albeit that this warning carries a trigger for review and a time limit.
- 2.2 The imposition of warning points against a driver who is an employee will not necessarily result in the additional imposition of points to his/her employer or operator. However the Licensing Authority will issue warning points to drivers, proprietors, driver/proprietors and operators for a single contravention if the circumstances warrant it, i.e. the breach is one against all these licences and it is considered joint responsibility is held.
- 2.3 Points issued to a proprietor, operator or driver will be confirmed in writing within three weeks of the completion of enquiries into the contravention or upon discovery of breach. Appeals must be made in writing within 21 days of the imposition of the warning points.
- 2.4 Points will be imposed on licences by either Licensing Officers or by the Licensing (Miscellaneous) Sub-Committee. The imposition shall be in accordance with Schedule 1 to this Appendix.
- 2.5 There is no financial warning associated with the Warning Points Scheme, and the licensee may continue to work. However, the licensee may be asked to attend a hearing before the Licensing (Miscellaneous) Sub-Committee if 12 or more warning points are imposed on an individual licence and are still valid, where appropriate action will be taken in accordance with this policy.

3.0 Duration of Points

- 3.1 When issued, the warning points will remain “live” for the period specified in Schedule 1 to this Appendix. They will remain on the licence for consideration from the date they are imposed for the specified period indicated in Schedule 1.

4.0 Appeals

- 4.1 Should a driver, operator or proprietor wish to dispute the imposition of points made by an Officer, then they have the right to appeal. Appeals will be made to the Chairman or Vice Chairman of the Licensing Committee, who will be advised by the Head of Service. The member may quash or uphold the appeal as they deem appropriate in accordance with the Guidance issued to Members.
- 4.2 A decision record will be provided following such an appeal hearing, which will provide the reasons for the decision.
- 4.3 Following an appeal an information report containing the decision record shall be presented to the Licensing Committee.
- 4.4 Appeals will only be referred to the Chairman or Vice Chairman of the Licensing Committee where they can satisfy the appeal criteria detailed in **paragraph 149** of this policy.

5.0 Hearing before the Licensing (Miscellaneous) Sub-Committee

- 5.1 Where a driver, proprietor or operator attains 12 or more warning points, disciplinary options available to the Licensing Authority will include suspension or revocation of the driver’s licence.
- 5.2 If it is felt that the matter does not warrant suspension or revocation of the licence, a written warning may be issued to the driver as to his future conduct.
- 5.3 Periods of suspension of a licence will be dependent on the nature of the breach of legislation or the requirements of this Policy and the compliance history of the licence holder.
- 5.4 A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
- 5.5 Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. In most cases a suspension will be subject to a 21 day appeal period starting on the date of the suspension notice

to allow for the formal appeal process. There might be occasions where immediate suspension is required e.g. danger to the public.

- 5.6 Where points have been issued to a person, then we reserve the right to inform the operator, proprietor or employer that points have been issued.

Schedule 1 to Appendix G - Warning Points Tariff

1.1 Legislative offences and penalties:

Two statutes principally create offences relating to hackney carriages and private hire vehicles, these are; i) The Town Police Clauses Act 1847; and ii) The Local Government (Miscellaneous Provisions) Act 1976. Offences may also be committed under other legislation, byelaws or conditions.

1.2 The offences are set out below under the relevant statute, state the number of points and the length of time that the points will remain on the licence. Where there is an option to attach more points, Licensing Officers will only be permitted to attach the minimum number of points. Where the Licensing Officer determines that the offence is of a more serious nature, the awarding of any points or action will be determined by the Licensing (Miscellaneous) Sub-Committee, who on hearing the case may attach points between the minimum and maximum, should the case be found.

1.3 When an application or licence is determined by the Licensing (Miscellaneous) Sub-Committee the points attached to a licence will be taken into consideration. In such cases the hearing will consider all relevant information and will determine the review in accordance with the relevant legislative framework. Points attached to a licence will not be the reason for refusal, suspension or revocation.

1.4 The Licensing Authority reserves the right to take all appropriate action as is deemed necessary. The attachment of points to a licence in no way prejudices the Licensing Authority's right to prosecute an offender should it be deemed in the public interest to do so.

1.5 Offences and infringements vary in seriousness. As a general rule, minor offences or infringements will result in the attachment of between 1 and 4 points for the first offence, lasting for a year, with medium offences or infringements getting between 5 and 8 points which last for 3 years for the first offence. More serious offences or infringements will result in between 9 and 12 points being attached to the licence which will last for a period of 5 years. Where a person commits the same offence or infringement during the period where the points are attached to their licence, then further points may be attached. The time limit for the first points attached to the licence will then be extended to expire with the further infringement. A list of the offences, warning points and the relevant period that points remain on the licence are in accordance with the following tables:

Table 1							
TOWN AND POLICE CLAUSES ACT 1847							
List No.	Section and Offence	Warning Points (First Offence)	Warning Points (Subsequent Offence)	Period Points Remain on the Licence (Months)	Operator	Proprietor	Driver
1	S40 - Giving false information on a hackney carriage licence application.	4	6	24/36		✓	✓
2	S44 - Failure to notify change of address on a hackney carriage licence.	2	3	12/18		✓	✓
3	S45 - Plying for hire without a hackney carriage licence.	12	12	60		✓	✓
4	S47 - Driving a hackney carriage without a hackney carriage driver's licence.	12	12	60			✓
5	S47 - Lending or parting with a hackney carriage driver's licence.	8	12	36/60			✓
6	S47 - Hackney carriage proprietor permitting or employing an unlicensed driver to drive a hackney carriage vehicle.	12	12	60		✓	✓
7	S48 - Failure of a proprietor to retain in his/her possession copies of any hackney carriage driver's licence that permits them to drive their vehicle.	2	3	12/18		✓	
8	S48 - Failure of a proprietor to produce on request by an authorised officer any hackney carriage driver's licence for whom he has permitted to drive his/her vehicle.	2	3	12/18		✓	
9	S52 - Failure to display a hackney carriage plate.	4	6	24/36			✓
10	S53 - Refusal to take a fare/passenger without a reasonable excuse.	6	9	36/48			✓
11	S54 - Charging more than the agreed fare.	8	12	48/60			✓
12	S55 - Obtaining more than the legal fare (including failure to refund).	8	12	48/60			✓
13	S56 - Travelling less than the lawful distance for an agreed fare.	6	9	36/48			✓
14	S57 - Failure to wait after a deposit to wait has been paid.	6	9	36/48			✓
15	S58 - Charging more than the legal fare.	8	12	48/60			✓
16	S59 - Carrying persons other than with the consent of the hirer.	6	9	36/48			✓
17	S60 - Driving a hackney carriage without the proprietor's consent.	12	12	60			✓
18	S60 - Allowing a person to drive a hackney carriage without the proprietor's consent.	12	12	60			✓
19	S62 - Driver leaving a hackney carriage unattended.	2	3	12/18			✓
20	S64 - Hackney carriage driver obstructing other hackney carriages.	3	5	12/18			✓
21	S68 – Breach of Byelaws	4	6	18/24		✓	✓
21A	S68 – Breach of Byelaws (Failure to wear ID Badge)	3	6	12/24			✓

Table 2

Local Government (Miscellaneous Provisions) Act 1976

List No.	Section and Offence	Warning Points (First Offence)	Warning Points (Subsequent Offence)	Period Points Remain on the Licence (Months)	Operator	Proprietor	Driver
22	S46(1)(a) - A licensed driver using an unlicensed vehicle for private hire purposes.	12	12	60			✓
23	S46(1)(b) - Driving a private hire vehicle without a private hire driver's licence.	12	12	60			✓
24	S46(1)(c) - Proprietor of a private hire vehicle permitting or employing an unlicensed driver to drive a private hire vehicle.	12	12	60		✓	
25	S46(1)(d) - Operating a private hire vehicle without a private hire operators' licence.	8	12	48/60	✓		
26	S46(1)(e) - Operating an unlicensed vehicle as a private hire vehicle.	12	12	60	✓	✓	✓
27	S46(1)(e) - Operating a private hire vehicle when the driver is not licensed as a private hire driver.	12	12	60	✓	✓	✓
27A	S47 – Breach of hackney carriage vehicle licence conditions where the breach is not covered elsewhere	4	6	18/36		✓	✓
28	S48(6) - Failure to display a private hire vehicle plate.	4	6	24/36		✓	✓
28A	S48 – Breach of private hire vehicle licence conditions where the breach is not covered elsewhere	4	6	18/36		✓	✓
29	S49 - Failure to notify the transfer of a vehicle licence.	3	6	12/24		✓	
30	S50(1) - Failure to present a hackney carriage or private hire vehicle for inspection upon request.	4	6	18/36		✓	
31	S50(2) - Failure to inform the Licensing Authority where a hackney carriage or private hire vehicle is stored, if requested.	3	6	12/24		✓	
32	S50(3) - Failure to report an accident to the Licensing Authority within seventy two hours.	6	10	36/48		✓	✓
33	S50(4) - Failure to produce the vehicle and/or insurance upon request.	6	10	36/48		✓	✓
33A	S51 – Breach of private hire drivers licence conditions where the breach is not covered elsewhere	4	6	18/36			✓
34	S53(3) - Failure to produce a driver's licence upon request.	6	10	36/48			✓
35	S54(2) - Failure to wear a private hire driver's badge.	3	6	12/24			✓
35A	S55 – Breach of private hire operator's licence conditions where the breach is not covered elsewhere	4	6	18/36	✓		
36	S56(2) - Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon request of an authorised officer of the Licensing	5	8	36/48	✓		

	Authority or a police officer within reasonable time / or time specified.						
37	S56(3) - Failure of a private hire operator to keep proper records of all private hire vehicle licenses and driver licenses, or failure to produce them on request of an authorised officer of the Licensing Authority or a police officer within reasonable time / or time specified.	5	8	36/48	✓		
38	S56(4) - Failure of a private hire operator to produce his licence upon request.	2	3	12/18	✓		
39	S57 - Making a false statement or withholding information to obtain a hackney carriage/private hire driver's licence.	12	12	60			✓
40	S58(2) - Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence.	5	8	36/48		✓	
41	S61(2) - Failure to surrender a driver's licence or badge on or after suspension, revocation, or refusal to renew.	5	8	36/48			✓
42	S64 - Permitting a private hire vehicle to wait on a hackney carriage rank.	8	12	48/60			✓
43	S66 - Hackney Carriage charging more than the meter fare for a journey ending outside the District, without prior agreement.	6	9	36/48			✓
44	S67 - Hackney Carriage charging more than the meter fare when a hackney carriage is used as a private hire vehicle.	6	9	36/48			✓
45	S69 - Unnecessarily prolonging a journey.	6	9	36/48			✓
46	S71 - Interfering with a private hire taxi-meter with intent to mislead.	12	12	60		✓	✓
46A	S71(1) – Using a PHV with a meter that hasn't been tested by the Licensing Authority	5	8	36/48		✓	✓
47	S73(1)(a) - Obstruction of an authorised officer of the Licensing Authority or a police officer.	6	9	36/48	✓	✓	✓
48	S73(1)(b) - Failure to comply with a requirement of an authorised officer of the Licensing Authority or a police officer.	3	6	12/24	✓	✓	✓
49	S73(1)(c) - Failure to give information or assistance to an authorised officer of the Licensing Authority or police officer.	3	6	12/24	✓	✓	✓

Table 3

LICENSING AUTHORITY POLICY

List No.	Section and Offence	Warning Points (First Offence)	Warning Points (Subsequent Offence)	Period Points Remain on the Licence (Months)	Operator	Proprietor	Driver
50	Failure to ensure the safety of passengers.	12	12	60	✓	✓	✓
51	Concealing or defacing a vehicle licence plate.	6	9	36/48	✓	✓	✓
52	Failure to attend on time for a pre-arranged appointment at the request of the Licensing Authority for interview without reasonable cause.	2	3	12/18	✓	✓	✓
53	Conveying a greater number of passengers than permitted.	12	12	60			✓
54	Failure to give reasonable assistance with passenger's luggage.	3	6	12/24			✓
55	Private hire soliciting for hire or accepting a fare that is not pre-booked.	12	12	60			✓
56	Operating/using a vehicle that is not clean and tidy internally or externally.	2	3	12/18		✓	✓
57	Operating/using a vehicle that is not in a safe condition internally or externally.	12	12	60		✓	✓
58	Driving without the consent of the proprietor.	12	12	60			✓
59	Drinking or eating in the vehicle whilst carrying passengers.	3	5	12/24			✓
60	Smoking in the vehicle at any time.	9	12	48/60			✓
60A	Using an e-cigarette in a licensed vehicle in breach of the licence conditions	6	9	24/48			✓
61	Causing excessive noise from any radio or sound-reproducing equipment.	2	3	12/18			✓
62	Sounding the horn to signal that the vehicle has arrived. disturbing residents	2	3	12/18			✓
63	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand.	12	12	60			✓
64	Allowing a hackney carriage vehicle to stand in a position, not being a hackney carriage stand, to suggest that is plying for hire.	2	4	12/24			✓
64A	Parking a hackney carriage vehicle or private hire vehicle illegally so as to cause an obstruction to other road users.	9	12	48/60			✓
64B	Allowing a hackney carriage vehicle to stand in a position on double yellow lines, not being a hackney carriage stand, to suggest that is plying for hire.	9	12	48/60			✓
65	Using a non-hands free mobile telephone whilst engine running.	4*	6	24/36			✓
65A	Using a non-hands free mobile telephone whilst driving.	12	12	60			✓
66	Failure to advise of a relevant medical condition.	12	12	60			✓

67	Failure to provide a receipt for a fare when requested.	2	4	12/24			✓
68	Failure to operate the meter from the commencement of the journey and /or charging more than the fixed charge for hire of a hackney carriage.	6	9	36/48			✓
69	Failure to notify the Licensing Authority of relevant change to licence details within the time specified in the associated licence conditions.	2	3	12/18	✓	✓	✓
70	Failure to produce a hackney carriage or private hire licence upon request.	2	3	12/18	✓	✓	✓
71	Failure to produce the private hire driver's licence to the private hire operator at the commencement of employment.	2	3	12/18			✓
72	Failure of a private hire operator to request and keep the driver's licence at the beginning of employment.	2	4	12/18	✓		
73	Failure of a licence holder to disclose convictions.	6	9	36/48	✓	✓	✓
74	Carrying any animal other than a guide, hearing or other prescribed assistance dog or those owned by bone-fide fare paying passengers.	2	4	12/24			✓
75	Failure to search a vehicle after a journey or failure to take found property to the police within forty eight hours of finding.	3	6	18/36			✓
76	Failure to report an accident within seventy two hours.	6	9	36/48			✓
77	Failure to comply with requirements for the safe carrying of a wheelchair	9	12	48/60		✓	✓
78	Operating a vehicle that does not comply with the Licensing Authority's licensing policy or relevant legislation where such a breach of policy/legislation is not otherwise specified herein.	6	9	36/48	✓	✓	✓
79	A Private Hire driver using a Hackney Carriage vehicle without a Hackney Carriage driver licence.	12	12	60			✓
80	Failure to carry an approved fire extinguisher.	2	3	12/18		✓	✓
81	Modifying a licensed vehicle without the consent of the Licensing Authority (Cosmetic)	3	5	24/36		✓	✓
81A	Modifying a licensed vehicle without the consent of the Licensing Authority (Safety/Mechanical)	6	9	36/48	✓	✓	✓
82	Failure to display or maintain external plates as issued by the Licensing Authority or displaying them incorrectly e.g. in the window of a vehicle.	4	6	30/42		✓	✓
83	Affixing or displaying a roof sign on a private hire vehicle or failure to affix a roof sign to a Hackney Carriage Vehicle.	6	9	36/48		✓	✓
84	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Licensing Authority.	4	6	30/42		✓	✓
85	Using a taxi-meter that does not conform to	6	9	36/48	✓	✓	✓

	Licensing Authority requirements.						
86	Driving with no insurance or inadequate insurance for the vehicle.	12	12	60		✓	✓
87	Permitting the vehicle to be used for any illegal or immoral/illegal purposes.	12	12	60	✓	✓	✓
88	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times.	2	4	12/24	✓		
89	Failure of a private hire operator to keep the operating premises in accordance with Licensing Authority requirements.	3	5	12/24	✓		
90	Failure of a private hire operator to ensure that all vehicles operated by them are adequately insured.	12	12	60	✓		
91	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access.	6	9	36/48	✓		
92	Driving or allowing a hackney carriage vehicle to be driven with tinted windows which do not conform to licence conditions.	6	9	36/48		✓	✓
93	Driving or allowing a hackney carriage or private hire vehicle to be driven without displaying the door signs or attaching the signs other than in accordance with the Councils Policy.	2	3	12/24		✓	✓
94	Allowing a hackney carriage vehicle to be driven with a top sign that is in breach of the licence conditions.	2	3	12/24		✓	
95	Failure to produce a DBS Certificate within 10 working days of the date of issue	2	3	12/18			✓
96	Breach of Code of Conduct (Minor)	3	5	18/36	✓	✓	✓
97	Breach of Code of Conduct (Serious)	8	12	48/60	✓	✓	✓
98	Breach of Dress Code	3	5	18/36			✓
99	Failure to carry a copy of the byelaws	1	2	9/12		✓	✓
100	Failing to ensure that a vehicle attends a booking on time	4	6	30/42	✓	✓	✓
101	Operator failing to maintain or produce training records	3	5	18/36	✓		

Any subsequent amendments to the legislation will supersede the tables above and this appendix may be amended to reflect the revised legislation by way of an addendum to this policy.

Where a breach is proven that is a combination of any of the above offences, the option to allocate points for each of the offences can be utilised by any authorised Licensing Officer or the Licensing (Miscellaneous) Sub-Committee.

Appendix H

Code of Conduct

The purpose of this code of conduct is to set a standard of behaviour that provides a positive image of the hackney carriage and private hire trade in North Lincolnshire, to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised. This code of conduct does not constitute a condition attached to a licence.

The sort of behaviour that drivers should avoid, include:

- Swearing, shouting or causing a disturbance.
- Behaving in a manner which could be considered to be rude or offensive or which brings the licensed trade into disrepute.
- Failing to afford reasonable assistance to a passenger loading luggage even where it is not requested.
- Having inappropriate conversations with children or vulnerable adults about their family, appearance or which may be construed as being sexual in content.
- Exchanging telephone numbers with children being carried on education contracts.
- Befriending children carried on education or social services contracts on any forms of social media.
- Using a vehicle that is not in road worthy condition or that is not clean or in full working order.

Drivers of licensed vehicles are often the first person a visitor to North Lincolnshire will see, especially where they arrive by train and they convey some of the most vulnerable people in society. Therefore, their behaviour should be of the highest standard and a driver should not act in a way that brings disrepute to other members of the trade.

Appendix I

Driver's Dress Code

The purpose of a driver's dress code is to seek a standard of dress that provides a positive image of the hackney carriage and private hire trade in North Lincolnshire, to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

- Footwear (shoes/trainers/sandals) for all drivers shall fit around the heel of the foot – no flip flops
- Clothing shall be kept in a clean condition, free from holes and rips
- Words or graphics on any clothing shall not be of an offensive or suggestive nature which might offend
- Tops must cover the midriff and shoulders so that no skin is visible on the body
- Trousers shall be full length, while shorts shall be knee length
- No headwear, other than for religious purposes (skull caps or turbans), or other items which cover the head or face shall be worn, other than when a uniform is worn for a special occasion.
- No earmuffs or scarfs shall be worn as to cover the face
- Offensive tattoos must be covered, either by clothing or band aid
- Sportswear, e.g. football/rugby kits, track suits, lycra and beach wear shall not be worn.
- Skirts shall be no shorter than knee length

Appendix J



**PRIVATE HIRE VEHICLE DRIVERS LICENCE
CONDITIONS**

Conditions attached to

Licence No:

Expiry Date:

1.0 LICENCE CONDITIONS

- 1.1 Any requirement of legislation, which affect the operations being carried out under the terms of this licence, shall be regarded as if they are conditions of this licence.
- 1.2 Wherever there appears in the Licence Conditions a summary of any statutory provision you are advised that such summary is not exhaustive.

2.0 CONDUCT OF DRIVER

The driver shall:

- 2.1 Ensure that any private hire vehicle to be driven by him/her is in a roadworthy condition and thoroughly cleansed before the commencement of his/her journey;
- 2.2 The driver shall ensure before commencing any journey that the vehicle is appropriately licensed, plated and insured as a private hire vehicle;
- 2.3 The driver of a private hire vehicle so constructed as to carry luggage shall, when requested by any person hiring the vehicle:-
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading; and
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person;
- 2.4 At all times be clean and respectable in his/her dress and person and behave in a civil and orderly manner; and
- 2.5 The driver must notify the proprietor of the vehicle, of any defects or damage however minor at the end of their shift.

3.0 PASSENGERS

The driver shall not:

- 3.1 Convey or permit to be conveyed in a private hire vehicle a greater number of persons than prescribed in the licence for the vehicle;
- 3.2 Allow there to be conveyed in the front of a private hire vehicle any child below the age of twelve years, unless with suitable restraint;

- 3.3 Allow passengers to be conveyed within the vehicle without suitable restraint.
- 3.4 All drivers should comply with the laws and regulations relating to child restraints and booster seats (for further information visit www.gov.uk/child-car-seats-the-rules)
- 3.5 Allow wheelchair passengers to be conveyed without appropriate restraints, and drivers must be adequately trained to secure such passengers.
- 3.6 Without the consent of the hirer of a vehicle, permit to be conveyed any other person in that vehicle.

4.0 LOST PROPERTY

- 4.1 The driver shall immediately after the termination of any hiring of a private hire vehicle, or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left there.
- 4.2 If any property accidentally left in a private hire vehicle by any person who may have been conveyed therein is found by or handed to the driver, he shall take it as soon as possible and in any event, within 24 hours if not sooner claimed by or on behalf of its owner, to his/her operating centre or police station and inform the North Lincolnshire Council Licensing Team of such action.

5.0 ANIMALS

- 5.1 The driver shall not convey in a private hire vehicle any animal belonging to or in the custody of himself/herself or the proprietor or operator of the vehicle.
- 5.2 Any animal belonging to or in the custody of any passengers, which at the driver's discretion may be conveyed in a private hire vehicle, shall only be conveyed in the rear of the vehicle.
- 5.3 A driver of a licensed Private Hire Vehicle, which has been hired:
 - (a) by or for a disabled person with their guide, hearing or prescribed assistance dog; or
 - (b) by a person who wishes such a disabled person to accompany him in the vehiclewill have a duty to :
 - (a) carry the disabled passenger's dog and allow it to remain with the passenger; and

(b) not make any additional charge for doing so.

5.4 The driver shall only be exempt from this condition on medical grounds and the driver has obtained an exemption notice from North Lincolnshire Council. The notice of exemption shall be exhibited by either;

(a) laying it in a prominent position on the dashboard facing upwards; or

(b) affixing it to the windscreen of the vehicle, facing outwards; or

(c) affixing it in such a position as required by the Licensing Authority.

6.0 PROMPT ATTENDANCE

6.1 The driver of a private hire vehicle shall, if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at that appointed time and place, unless delayed or prevented by sufficient cause.

7.0 DEPOSIT OF LICENCE

7.1 If the driver is permitted or employed to drive a private hire vehicle by an operator he shall, before commencing to drive that vehicle, deposit his/her private hire driver's licence with that operator for retention by him/her until such time as the driver ceases to be permitted or employed to drive for that operator where it should then be returned.

8.0 TAXIMETER

8.1 If a private hire vehicle is fitted with a taximeter then the driver shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare.

8.2 Private hire vehicles fitted with a taximeter may not operate unless the meter is in working condition and has been checked by an Authorised Officer of the Council.

9.0 FARE TO BE DEMANDED

9.1 The driver shall not demand from any hirer of a private hire vehicle a fare in excess of any previously agreed to the hiring between the hirer

and the operator or, if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare, the fare shown on the face of the taximeter.

10.0 CHANGE OF ADDRESS/TELEPHONE NUMBER

- 10.1 The driver shall notify the Council in writing of any change of his/her address, telephone number and/or email address within 7 days of such change.

11.0 CONVICTIONS / OFFENCES

- 11.1 The driver shall, immediately, or in any case within 7 days, disclose to the Council in writing, details of any conviction imposed on him/her during the period of the licence, motoring or criminal. (Includes any fixed penalties and cautions, endorsable or not)

12.0 DRIVERS BADGES

- 12.1 The Driver's badge must be worn on the driver's person in a position where it may be seen at all times. The driver shall, upon the expiry (without immediate renewal), revocation or suspension of this licence, forthwith return to the Council the Driver's badge issued to him/her by the Council. The badge remains the property of the Council at all times.

13.0 ILLNESS OR INJURY

- 13.1 The driver shall notify the Council in writing, as soon as possible and in any event within 21 days of any illness or injury affecting his/her fitness to drive in any way, unless the said period of illness is for a period of less than 21 days and the driver does not intend to drive during this period.

14.0 GENERAL LICENCE CONDITIONS

- 14.1 If you are aggrieved by any of the conditions attached to the licence you may appeal to a Magistrates Court within 21 days of the service of the licence and attached conditions on you. (See Section 52 and 77 of the 1976 Act and Section 300 of the Public Health Act 1936).
- 14.2 All drivers shall operate strictly within the terms of any licence issued under the incorporating terms and conditions of The Local Government (Miscellaneous Provisions) Act 1976.



**HACKNEY CARRIAGE VEHICLE LICENCE
CONDITIONS**

Licence No:

Expiry Date:

1.0 LICENCE CONDITIONS

- 1.1 Any requirement of legislation which affects the operations being carried out under the terms of this licence shall be regarded as if it was a condition of this licence.
- 1.2 Wherever a summary of any statutory provision appears in these licence conditions you are advised that such summary is not exhaustive.
- 1.3 In these conditions, references to “the Council” means North Lincolnshire Council.

2.0 MAINTENANCE OF VEHICLE AND SAFETY EQUIPMENT

- 2.1 The proprietor of the vehicle shall:
 - 2.1.1 Provide sufficient means by which any person in the vehicle may communicate with the driver;
 - 2.1.2 Cause the vehicle to be kept watertight;
 - 2.1.3 Provide adequate windows and the means of opening and closing them;
 - 2.1.4 Cause the seats to be properly cushioned, covered and in good repair;
 - 2.1.5 Cause the floor in a carpeted vehicle to be provided with a proper carpet and correctly fitted rubber or carpet mats all in good condition, so not to cause a trip hazard in accordance with 2.2 below;
 - 2.1.6 Cause the fittings and furniture generally to be kept in a clean condition and well maintained;
 - 2.1.7 Provide a fire extinguisher which meets the requirements laid down in the Hackney Carriage Byelaws and European Standard EN3, being either a 0.9kg dry powder or up to a 1kg powder with gauge or a 1lt AFFF with gauge, in accordance with the requirements of 2.3 below;
 - 2.1.8 Ensure that the vehicle, it's fittings and equipment are maintained in an efficient, safe, tidy and clean condition at all times when it is in use or available for hire and that all relevant statutory requirements (including those contained in the Motor Vehicles (Construction and use) Regulations are fully complied with; and
 - 2.1.9 Ensure that no material alterations or changes are made to the specification, design, condition or appearance of the vehicle whilst the licence is in force without the prior approval of the Council.
- 2.2 Not more than one carpet or rubber mat shall be fitted per foot well.

The floor in a minibus style vehicle should be in good condition, clean and free from holes (except for wheelchair fixtures).

- 2.3 Vehicles authorised to carry more than 4 passengers may carry up to a 2kg powder or a 2ltr AFFF with gauge, as per guidance from the Humberside Fire and Rescue Service. The fire extinguisher shall either be secured to the vehicle or located within the vehicle glove compartment or boot with a label affixed to the outside of the glove compartment/ boot indicating that the fire extinguisher is contained within. The fire extinguisher shall be clearly marked with the plate number of the vehicle by an Authorised Officer of the Council.
- 2.4 All vehicles must be fitted with rear seat belts.
- 2.5 Radio scanners must not be carried or used in a Hackney Carriage Vehicle by any person.
- 2.6 The vehicle shall be fitted with a standard roof sign, measuring 457mm (18 inches) in length by 152mm (6 inches) in height by 112mm (4 inches) in width bearing either the word "TAXI", "CAB", "FOR HIRE" or the name and/or landline telephone number of the business concerned when within the area of North Lincolnshire. The roof sign shall display the licence number of the vehicle on each end in typed figures no smaller than 25.4mm (1 inch) in height or other such sign as may be specified.
- 2.7 The roof sign shall display a white or yellow face to the front and a red face to the rear.
- 2.8 Where the hackney carriage vehicle is not fitted with a spare wheel, then the vehicle shall be fitted with run flat tyres. Any spare wheel fitted must comply with legal requirements on tread.

3.0 IDENTIFICATION PLATE

- 3.1 The external identification plate issued by the Council shall be securely fixed to the rear of the vehicle to the satisfaction of the Council (the licence plate shall not be tied to the rear of the vehicle). The plate shall be permanently fixed to the external offside rear lower part of the vehicle in such a position as to be clearly visible from the rear of the vehicle, or adjacent to the vehicle's rear registration plate, where a bracket behind the registration number plate is used.
- 3.2 The external identification plate shall be maintained in a clean condition and shall not be wilfully or negligently concealed from public view.
- 3.3 The external and internal identification plates are the property of the Council and must be returned to the Council Offices on expiry of the licence, or if the vehicle is sold out of the trade, or for any other reason that prevents the vehicle from being used as a Hackney Carriage.

- 3.4 If the external and or the internal identification plate is STOLEN or LOST the fact must be reported to Humberside Police and the Council's Licensing Team as soon as the loss is discovered.

4.0 VEHICLE / WHEELCHAIR ACCESS

- 4.1 The Hackney Carriage Vehicle shall be a saloon, hatchback or estate car. London type cabs or people carrier type vehicles (i.e. those vehicles which are capable of carrying more than 4 passengers) shall be fitted and adapted to enable passengers in wheelchairs to travel inside the vehicle. All vehicles shall be of a suitable type and design for use as a Hackney Carriage and shall at all times be maintained in a safe, clean and comfortable condition. All new and replacement vehicles must be white with currently licensed vehicles being white by 31 December 2023.
- 4.2 The vehicle shall have a minimum passenger seating capacity of four seats but not more than eight seats. The minimum width of the rear seat must not be less than 122cm (48 inches).
- 4.3 No Hackney Carriage licensed by the Council shall be left unattended on any public road, street or at any place of public resort or entertainment.
- 4.4 Wheelchair anchorage and restraints must be approved, adapted for various sized wheelchairs and have separate restraints (seat belts) for the passenger and must be securely stowed away when not in use.
- 4.5 No part of the webbing/straps should be frayed.
- 4.6 Ramp(s) for the loading/unloading of a wheelchair and occupant must be available at all times. The ramp must be capable of being stowed safely when not in use and must not obstruct exiting the vehicle.
- 4.7 Lift(s) for the loading/unloading of a wheelchair and occupant must be available at all times. The lift must be capable of being stowed safely when not in use.
- 4.8 The windscreen shall allow at least 75% light through while the passenger windows on the vehicle shall allow at least 70% light through. Factory fitted tints may be permitted.
- 4.9 Any equipment, must be stowed away in a safe and secure position, unless it is being used during the journey.
- 4.10 All lifts and strapping are required to have the manufacturer's guidance available.

5.0 INTERIOR PLATE AND TABLE OF FARES

- 5.1 The proprietor and driver of any Hackney Carriage Vehicle shall display or cause to be displayed within the vehicle any internal plate and Table of Fares provided and issued by the Council in such a position either in the front window or on the dashboard; and in the rear nearside passenger window, so that it is visible at all times to persons conveyed therein.

6.0 SIGNS AND NOTICES, ETC.

- 6.1 No sign, notice, advertisement, plate, mark, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from any Hackney Carriage licensed by the Council except as may be required by any law or provision of these conditions or as otherwise authorised by the Council.
- 6.2 Subject to approval by North Lincolnshire Council, the proprietor may display the trading name of the operator, together with his/her landline telephone number, or advertising.
- 6.3 The proprietor shall affix the door signs as supplied by the Council on the front doors of the vehicle. Such signs shall be securely fixed directly to the vehicle so as not to be easily removed from the vehicle.
- 6.4 The proprietor shall affix and maintain in a conspicuous position in the vehicle any sign or notice relating to Hackney Carriages which the Council may in its discretion require from time to time.
- 6.5 The following signs and/or membership badges may be displayed in or from any Hackney Carriage licensed by North Lincolnshire Council:
- 6.5.1 Any badge or sign which indicates membership of any motoring or vehicle rescue organisation
 - 6.5.2 No smoking signs
 - 6.5.3 Signs which indicate the location of the Fire Extinguisher
 - 6.5.4 A sign notifying the use of CCTV where it is in operation.
 - 6.5.5 A "GB" sign displayed on the rear near side of the vehicle.

7.0 CHANGE OF ADDRESS AND EMAIL ADDRESS

- 7.1 The proprietor of any Hackney Carriage licensed by the Council shall notify the Council in writing of any change of his/her address, telephone number and/or email address during the period of the licence. The notice of change of address or telephone number should be within 7 days of such change.

8.0 CONVICTIONS

- 8.1 The proprietor of any Hackney Carriage licensed by the Council shall immediately, or in any case with 7 days to the Council, in writing,

details of any conviction imposed on him or her during the period of the licence.

9.0 TAXIMETER

- 9.1 Any Hackney Carriage being licensed as such for the first time must be fitted with a taximeter approved by the Public Carriage Office or complying with the EEC directive 77/95/EEC in that they bear the EEC patent approval sign or the EEC partial initial verification mark and shall be calendar controlled so as to be tamper proof.
- 9.2 The taximeter must not be operated unless it is in working condition and has been checked by an Authorised Officer of the Council.

10.0 MECHANICAL FITNESS

- 10.1 Prior to issue of a licence all vehicles must be mechanically inspected at the Council's appointed garage to the required Testing Standard, which can be found in the Hackney Carriage and Private Hire Testing and Inspection Manual. The vehicle shall be submitted for inspection and test on initial application for a vehicle licence and presented annually for renewal of that licence thereafter whilst the vehicle is being operated as a Hackney Carriage.
- 10.2 If a vehicle is less than 5 years old on the date of testing, a licence shall be granted for no more than one year.
- 10.3 In the case of any vehicle more than 5 years old, the licence will be granted for a period of not more than 6 months. If a vehicle is more than 8 years old, the licence will be granted for a period of not more than 4 months.

11.0 VEHICLE APPEARANCE

- 11.1 In addition to a mechanical inspection, all vehicles must meet the standard laid down in the Testing Standards for appearance, comfort and cleanliness.
- 11.2 The boot must be kept clear for the carrying of passengers' luggage with certain exceptions (child's booster seat).
- 11.3 The external and internal glazing to the front driver, passenger windows and windscreen shall not hinder or restrict vision through the glazing in any way. The windscreen must allow at least 75% visibility and the remainder of the glazing must allow at least 70% visibility, save where any tinted glass has been fitted at the time of manufacture.

12.0 VEHICLE DAMAGE

- 12.1 Any vehicle involved in an accident causing damage which materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of persons carried therein, must be presented for inspection to the appointed officer of the Council. A written report must be submitted as soon as possible after such accident, and in any case within 72 hours. The vehicle may not continue to operate without the prior approval of the Council's appointed officer.

13.0 STOWAGE OF LUGGAGE

- 13.1 Luggage must be stowed safely and in such a manner so that it cannot move around inside the vehicle. Gangways must not be blocked or in any way impede an emergency evacuation of the vehicle.

14.0 GENERAL LICENCE CONDITIONS

- 14.1 An Authorised Officer of the Council or any Police Officer shall have power at all reasonable times to inspect and test any Hackney Carriage licensed by the Council for the purpose of ascertaining its fitness. A vehicle licence may be suspended if the Officer is not satisfied with the fitness of the licensed vehicle.
- 14.2 The driver of a licensed Hackney Carriage shall stop the vehicle at the request of a Police Officer, whether or not passengers are being carried. The driver shall then permit the Police Officer or Authorised Officer of the Council to check the vehicle to ensure that all the requirements of the Council and relevant legislation have been complied with. The driver shall not proceed until the Authorised Officer or Police Officer has given his approval.
- 14.3 Any person aggrieved by a decision made during the inspection made by the Licensing Officer may appeal in writing to the Licensing Manager or Licensing and Mediation Officer. This does not affect the statutory rights regarding appeals.
- 14.4 Any person aggrieved by any of the conditions attached to this licence may appeal to a Magistrates Court within 21 days of receipt of the licence and attached conditions (see Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 300 of the Public Health Act 1936).

Appendix L



**PRIVATE HIRE VEHICLE LICENCE
CONDITIONS**

Conditions attached to

Licence number:

Expiry date:

1.0 LICENCE CONDITIONS

- 1.1 Any requirement of legislation which affects the operations being carried out under the terms of this licence shall be regarded as if it was a condition of this licence.
- 1.2 Whenever a summary of a statutory provision appears in these licence conditions you are advised that such summary is not exhaustive.
- 1.3 In these conditions, references to “the Council” means North Lincolnshire Council

2.0 MAINTENANCE OF VEHICLE AND SAFETY EQUIPMENT

- 2.1 The proprietor of the vehicle shall:
 - 2.1.1 Provide sufficient means by which any person in the vehicle may communicate with the driver;
 - 2.1.2 Provide adequate windows and the means of opening and closing them;
 - 2.1.3 Cause the roof or covering to be kept watertight;
 - 2.1.4 Cause the seats to be properly cushioned and covered;
 - 2.1.5 Cause the floor to be provided with a proper carpet and the correct size rubber mats;
 - 2.1.6 Cause the fittings and furniture generally to be kept in a clean condition and well maintained;
 - 2.1.7 Provide a fire extinguisher which meets the requirements of the new European Standard EN3, being a minimum of 0.9/1 kg powder with gauge or a 0.9/1 litre AFFF with gauge, in accordance with the requirements of paragraph 2.2;
 - 2.1.8 Ensure that the vehicle, it's fittings and equipment are maintained in an efficient, safe, tidy and clean condition at all times when the vehicle is in use or available for hire and that all relevant statutory requirements (including those contained in the Motor Vehicle (Construction and Use) Regulations) are fully complied with;
 - 2.1.9 Ensure that no material alterations or changes are made to the specification, design, condition or appearance of the vehicle whilst the licence is in force without the prior approval of the Council; and
- 2.2 The fire extinguisher shall either be secured to the vehicle or located within the vehicle glove compartment or boot with a label affixed to the outside of the glove compartment/boot indicating that the fire

extinguisher is contained within. The fire extinguisher shall be clearly marked with the plate number of the vehicle by an Authorised Officer of the Council.

- 2.3 All vehicles with rear seat anchorage points must be fitted with rear seat belts.
- 2.4 Radio scanners must not be carried or used in a Private Hire Vehicle by any person.
- 2.5 The proprietor of the vehicle shall produce, the Vehicle Registration Document, Private Hire Vehicle Licence and Vehicle Exemption Certificate when required to do so by the Police, an Authorised Officer of the Council or any other person authorised to demand such documents.
- 2.6 Where the private hire vehicle is not fitted with a spare wheel, then the vehicle shall be fitted with run flat tyres. Any spare wheel fitted must comply with legal requirements on tread.

3.0 IDENTIFICATION PLATE

- 3.1 The external identification plate issued by the Council shall be securely fixed to the vehicle to the satisfaction of the Council (the licence plate shall not be tied to the rear of the vehicle). The plate shall be fixed to the external offside rear lower part of the vehicle in such a position as to be clearly visible from the rear of the vehicle or, adjacent to the vehicle's rear registration plate where a bracket behind the registration number plate is used.
- 3.2 The external identification plate shall be maintained in a clean condition and shall not be wilfully or negligently concealed from public view.
- 3.3 The external and internal identification plates are the property of the Council and must be returned to the Council on expiry of the licence, or if the vehicle is sold out of the trade, or for any other reason that prevents the vehicle from being used as a private hire vehicle.
- 3.4 If the external and/or the internal identification plate is **STOLEN** or **LOST** the fact must be reported to Humberside Police and the Council's Licensing Team as soon as the loss is discovered.

4.0 VEHICLE

- 4.1 The vehicle shall be of suitable size, type and design for use as a private hire vehicle (not a London type cab), and shall be maintained in a safe and comfortable condition.

5.0 INTERIOR MARKINGS

- 5.1 The proprietor of the private hire vehicle shall display or cause to be displayed within the vehicle any internal plate or other device provided and issued by the Council in such a position that it is visible at all times to persons conveyed therein.

6.0 SIGNS AND NOTICES, ETC.

- 6.1 No sign, notice, advertisement, plate, mark, numbers, letter, figure, symbol, emblem or device whatsoever shall be displayed on, in or from any private hire vehicle licensed by the Council except as may be required by any law or provision of these conditions or as otherwise authorised by the Council.

- 6.2 Subject to approval by North Lincolnshire Council, the proprietor may display the trading name of the operator, together with his/her landline telephone number. In such a case the name and telephone number may be displayed provided that the trading name shall not contain the words "CAB", "TAXI" or "FOR HIRE".

- 6.3 All private hire vehicles shall display door signs, as supplied by the Council on the front doors of the vehicle. Such signs shall be securely fixed (not on magnets) directly to the vehicle so as not to be easily removed from the vehicle.

- 6.4 If a notice of exemption has been issued by the Council, the vehicle in question shall be exempt from the requirement to display all door signs and licence plates, except the internal licence plate. Such plates must, however, be kept with the vehicle at all times, together with the certificate of exemption. An Authorised Officer of the Council may inspect at any time to ensure compliance with this condition.

- 6.5 The following signs and/or membership badges may be displayed in or from any private hire vehicle licensed by the Council:

6.5.1 Any badge or sign which indicates membership of any motoring or vehicle rescue organisation

6.5.2 No smoking signs (Symbol 70mm)

6.5.3 Signs which indicate the location of the Fire Extinguisher.

6.5.4 A sign notifying the use of CCTV where it is in operation.

6.5.5 A "GB" sign displayed on the rear near side of the vehicle.

7.0 CHANGE OF ADDRESS

- 7.1 The proprietor of any private hire vehicle licensed by the Council shall notify the Council in writing of any change of his/her address, telephone number and/or email address within 7 days of such change.

8.0 CONVICTIONS

- 8.1 The proprietor of any private hire vehicle licensed by the Council shall **immediately** or within 7 days disclose, to the Council in writing, details of any convictions, motoring, or criminal imposed on him/her (or, if the proprietor is a company or partnership, on any of the directors or partners).

9.0 VEHICLE FITTED WITH TAXIMETER

- 9.1 Private hire vehicles fitted with a taximeter may not operate unless the meter is in working condition. Any Private Hire Vehicle licensed as such for the first time shall only be fitted with a taximeter approved by the Public Carriage Office, or complying with the EEC directive 77/95/EEC in that it bears the EEC patent approval sign or the EEC partial initial verification mark.
- 9.2 The relevant scale of charges or fare tables operating shall be displayed in the vehicle.

MECHANICAL FITNESS

- 10.1 Prior to issue of a licence all vehicles must be mechanically inspected at the Council's appointed garage to the required Testing Standard, which can be found in the Hackney Carriage and Private Hire Testing and Inspection Manual. The vehicle shall be submitted for inspection and test on initial application for a vehicle licence and thereafter presented annually for renewal of that licence so long as the vehicle is being operated as a private hire vehicle.
- 10.2 Any vehicle which will be between five and eight years old on the date of the expiry of a licence shall be subject to an additional mechanical compliance and condition test six months after the date of issue of the licence.
- 10.3 Any vehicle more than 8 years old on the date of the expiry of the licence shall be subject to an annual test and 2 further supplementary mechanical compliance and condition checks at 4 months and 8 months respectively after the day of the issue of the licence.
- 10.4 Any failure to submit a vehicle for a test in accordance with 10.4 above shall result in the suspension of the licence on the first day after the due test date, unless there are exceptional mitigating circumstances. Any such mitigating circumstances must be put in writing to the Council's Licensing Manager prior to failure to submit vehicle for test.

11.0 VEHICLE APPEARANCE

- 11.1 In addition to a mechanical inspection, all vehicles must meet the Testing Standards laid down for appearance, comfort and cleanliness.
- 11.2 The boot of the vehicle must be kept clear for the carrying of passengers' luggage with certain exceptions (booster seat).
- 11.3 No external or internal glazing to the front near and offside windows of the vehicle shall be obscured, disfigured, treated or coated in any way (other than at the time of manufacture) so as to hinder or restrict vision through the glazing. The windscreen must allow at least 75% visibility and the remainder of the glazing must allow at least 70% visibility.

12. VEHICLE DAMAGE

- 12.1 Any vehicle involved in an accident causing damage which materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of persons carried therein, must be presented for inspection to the appointed officer of the Council. A written report must be submitted as soon as possible after such accident, and in any case with 72 hours. The vehicle may not continue to operate without the prior approval of the Council's appointed officer.

13. STOWAGE OF LUGGAGE

- 13.1 Luggage must be stowed safely and in such a manner so that it cannot move around inside the vehicle. Gangways must not be blocked or in any way impede an emergency evacuation of the vehicle.

14. APPEAL

- 14.1 Any person aggrieved by a decision made during the inspection carried out by the Licensing Officer may appeal in writing to the Licensing Manager or Licensing and Mediation Officer. This does not affect the statutory rights regarding appeals.
- 14.2 Any person aggrieved by any of the conditions attached to this licence may appeal to a Magistrates Court within 21 days of service of the licence with the conditions attached (see section 48 (7) and 77 of the Local Government (Miscellaneous Provisions) Act 1976 and sections 300 to 302 of the Public Health Act 1936).

Appendix M



**PRIVATE HIRE OPERATORS LICENCE
CONDITIONS**

Conditions attached to

Licence Number

Expiry Date :

1.0 LICENCE CONDITIONS

- 1.1 Any requirement of legislation, which affects the operations being carried out, under the terms of this licence, shall be regarded as if they are conditions of this licence.
- 1.2 Wherever there appears in the Licence Conditions any statutory provision, you are advised that such summary is not exhaustive.

2.0 RECORDS

- 2.1 The operator is required to maintain a record of all bookings in accordance with Section 56 (2) of the Local Government (Miscellaneous Provisions) Act 1976. Such a record shall be kept on a computer or in a suitable book or ledger, the pages of which are numbered consecutively. The operator shall enter or cause to be entered therein, before the commencement of each journey, the following particulars of every booking of a private hire vehicle, invited or accepted by him/her.
- The time and date the booking was received
 - How the booking was made i.e. telephone, personal call.
 - Identification of the hirer
 - The day and date of each journey
 - The time of pick up / collection
 - The point of pick up / collection
 - The call sign of the driver
 - The destination
 - The registration number, plate number or Ref. No. (call sign) of the vehicle allocated for the booking.
 - Remarks (including details of any sub-contract)
- 2.2 All records kept by the operator shall be preserved for a period of not less than three years following the date of the last entry.
- 2.3 Computer Records – if a computer system is used, the operator must be able to provide a print out of these details for inspection by an Authorised Officer of the Council or a Police Constable.
- 2.4 The operator shall maintain a written record within a paginated book of all property found in vehicles. The log shall contain:
- the date and time the property was found
 - details of the property
 - disposal of the property

3.0 STANDARD OF SERVICE

3.1 The operator shall provide a prompt, efficient and reliable service to members of the public and for this purpose shall in particular:

- Ensure that when a private hire vehicle has been hired, to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.

3.2 Keep clean, adequately heated, ventilated and lit, any premises, which the operator provides and to which the public have access, whether for the purpose of booking or waiting.

3.3 Ensure that any waiting area provided by the operator has adequate seating facilities which are in a clean and tidy condition.

3.4 Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.

4.0 COMPLAINTS

4.1 The operator shall keep a record of complaints and indicate action (if any) which the operator has taken or proposes to take in respect thereof.

5.0 CHANGE OF ADDRESS/BUSINESS PREMISES

5.1 The operator shall notify the Council in writing of any change of his/her address and or telephone number (including any address from which he/she operates or otherwise conducts his/her business as an operator) immediately or in any case within seven days of such change taking place.

6.0 CONVICTIONS

6.1 The operator shall, within seven days, disclose to the council, in writing, details of any conviction imposed on him/her (or if the operator is a company or partnership, on any of the directors or partners).

7.0 STAFF

7.1 The operator shall notify North Lincolnshire Council in writing within seven days of the employment of any Private Hire Driver or of the termination of employment of any Private Hire Driver employed by him.

7.2 The operator shall provide training to all employees and drivers employed to take bookings through their licence, to include:

- Customer Service and Professionalism
- Manual Handling
- Health and Safety Awareness

- Disability Awareness and Wheelchair Loading
- Code of Conduct
- School Contracts/Client Carriage Information
- Safeguarding and CSE Awareness

7.3 The operator shall maintain records of all training carried out, which must be kept at the place where the bookings are authorised to be taken and make such records available for inspection by an Authorised Officer of the Council upon request.

8.0 INSURANCE

8.1 The operator shall ensure that every Private Hire Vehicle operated by him/her in accordance with this licence is covered by a Certificate of Insurance or covering note indemnifying the proprietor of the said vehicle within the provision of the Road Traffic Act 1988 (Part IV) for the carriage of passengers for hire or reward.

8.2 The operator shall ensure that he/she holds valid Employers Liability Insurance

8.3 The operator shall ensure that he/she hold valid Public Liability Insurance of at least £10,000,000.

9.0 DISPLAY OF LICENCE AND CONDITIONS

9.1 The operator shall at all times keep a copy of the licence and the conditions on any premises used by him/her for the purpose of a private hire business, and shall make the same available for inspection by either actual or potential fare paying passengers.

10.0 DEPOSIT OF PRIVATE HIRE DRIVER'S LICENCE

10.1 The operator shall cause to be delivered to him/her the licence of any driver engaged by him or her and shall retain such licence in his/her possession until such time as the driver ceases to be engaged by him/her. The operator shall ensure that such driver is in possession of the appropriate driver's badge issued by the Council.

10.2 The operator shall keep a ledger containing the following details as regards each private hire vehicle operated by him/her:

- Maker's name and model
- Registration number
- Colour
- Number of seats for passengers
- Name, address and telephone number of owner of vehicle
- Radio call sign allocated to the driver/car

- Private Hire Vehicle Licence number
- Private Hire Vehicle Licence issue and expiry date

10.3 The said ledger shall be produced for inspection when required by an Authorised Officer of the Council or a Police Officer.

11.0 LANDLINE TELEPHONE NUMBER

11.1 The operator shall have a landline telephone number at the licensed premises, which shall be used for the taking of bookings.

12.0 STAFF TRAINING

12.1 The operator shall ensure that all persons working for them and any drivers who carry out bookings on their behalf are trained in the following:

- Customer Service and Professionalism
- Manual Handlin
- Health and Safety
- Disability Awareness and Wheelchair Loading
- Code of Conduct
- Safeguarding and CSE Awareness

12.2 Operators shall maintain a written record of all training carried out, which shall be kept at the location where bookings are authorised to be taken. These records shall be available for inspection by an Authorised Officer of the Council or a Police Officer.

13.0 GENERAL LICENCE CONDITIONS

13.1 If you are aggrieved by any of the Conditions attached to this licence you may appeal to a Magistrates Court within 21 days of the service of the licence and attached conditions on you (see Section 55 and 77 of the 1976 Act and Section 300 of the Public Health Act 1976).

Appendix N

BYELAWS FOR HACKNEY CARRIAGES

BYELAWS

Made under section 68 of the Town Police Clauses Act 1847, and section 171 of the Public Health Act 1875, by the Council of North Lincolnshire with respect to hackney carriages in North Lincolnshire.

Interpretation.

1. Throughout these byelaws “the Council” means the Council of North Lincolnshire and “the district” means North Lincolnshire.

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

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

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

3. The proprietor of a hackney carriage shall:-
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) cause the roof or covering to be kept 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, being either a 0.9 kilo dry powder extinguisher with gauge or a 1 kilo Aqueous Film forming foam extinguisher with gauge, which shall be carried in such a position as to be readily available for use by the driver;
and
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the carriage to be provided with a taximeter which shall be constructed, attached, and maintained so as to comply with the following requirements, that is to say:-
- (a) the taximeter shall be fitted with a device the operation 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 device shall be capable of de-activating the machinery of the taximeter so that no fare is recorded on the face of the taximeter,
 - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
 - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
 - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
 - (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

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

5. The driver of a hackney carriage shall:-
 - (a) when standing or plying for hire, keep the device fitted in pursuance of the byelaw in that behalf deactivated so that no fare is recorded on the face of the taximeter;
 - (b) before beginning a journey for which a fare is charged for distance and time bring the machinery of the taximeter into action by moving the said device, so that the word "HIRED" appears on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
 - (c) cause the face of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise, and also at any other time at the request of the hirer.
6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
 - (a) proceed with reasonable speed to one of the stands appointed by the Council;
 - (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; and
 - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.

9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
 - (d) convey a reasonable quantity of luggage;
 - (e) afford reasonable assistance in loading and unloading; and
 - (f) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

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

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

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance and time the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.
15.
 - (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
 - (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed

or rendered illegible at any time while the carriage is plying or being used for hire.

Penalties.

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

Repeal of Byelaws.

17. The byelaws relating to hackney carriages detailed in the schedule are hereby repealed.

Schedule.

1. The byelaws made by the Mayor Aldermen and Burgesses of the Borough of Scunthorpe on the twenty fifth day of September 1972, and which were confirmed by the Secretary of State on the first day of April 1973.
2. The byelaws made by the Glanford Borough Council on the twenty third day of December 1986, and which were confirmed by the Secretary of State on the first day of July 1987.
3. The byelaws made by the Boothferry Borough Council on the first day of October 1987, and which were confirmed by the Secretary of State on the first day of January 1988, insofar as they relate to the area of North Lincolnshire.

The Common Seal of
North Lincolnshire Council
was hereunto affixed this
twenty sixth day of February 1999
in the presence of:-

G K Masterson
Authorised Officer

The foregoing Byelaw is hereby
confirmed by the Secretary of State
and shall come into operation on the
first day of June 1999

E. C. Neve

A grade 5 office in the D.E.T.R on behalf of the Secretary of State for the
Environment, Transport and the Regions

Glossary of Terms

“we”	- means North Lincolnshire Council
“Authorised Officer”	- means an Officer employed by North Lincolnshire Council authorised under the Licensing Act 2003
“Council”	- means North Lincolnshire Council
“CSE”	- means Child Sexual Exploitation
“Delegation”	- means what Officers are authorised to do
“DBS”	- means the Disclosure and Barring Service
“employee of Humberside Police”	- means a Police Constable or a civilian employee of Humberside Police who works in the Licensing Team
“Licensing Committee”	- means a group of between 9 and 15 members of North Lincolnshire Council who will deal with Cumulative Impact and Policy Issues
“Licensing Sub-Committee”	- means a group of 5 members of North Lincolnshire Council who will deal with Licence Applications where there is a representation and reviews of licences
“Magistrates' Court”	- means Grimsby Magistrates' Court
“Personal Details”	- means any details provided by an individual (not a business) about themselves, including their address, telephone number, email address
“Pre-application Advice Service”	- means a service provided by the Licensing Team to help applicants fill in their application forms
“Statutory Provisions”	- means laws passed by Parliament
“trace”	- means that a person has convictions which have been provided on their Disclosure and Barring Service Check
“Licensing Manager”	- means the manager with day to day responsibility of managing the Licensing Function who has budgetary control
“Head of Trading Standards and Licensing; Group Manager, Trading Standards and Licensing”	- means the manager with responsibility for the Licensing Function
“Assistant Director Technical and Environment”	- means a senior manager who has oversight of the function
“Licensing and Mediation Officer”	- means an authorised officer employed to assist the manager with day to day responsibility of managing the Licensing Function
“Principal Licensing and Mediation Officer”	- means an authorised officer employed to assist the manager with day to day responsibility of managing the Licensing Function

