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**Service Director – Legal, Governance and
Commissioning**

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Tuesday 5 March 2019

Notice of Meeting

Dear Member

Licensing and Safety Committee

The **Licensing and Safety Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **10.00 am** on **Wednesday 13 March 2019**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Licensing and Safety Committee members are:-

Member

Councillor Carole Pattison (Chair)
Councillor Mahmood Akhtar
Councillor Karen Allison
Councillor James Homewood
Councillor Christine Iredale
Councillor Michelle Grainger-Mead
Councillor Mumtaz Hussain
Councillor Manisha Roma Kaushik
Councillor Terry Lyons
Councillor Amanda Pinnock
Councillor Cathy Scott
Councillor Mohan Sokhal
Councillor Kath Taylor
Councillor Michael Watson

When a Licensing and Safety Committee member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

B Armer
D Bellamy
V Lees-Hamilton
N Patrick
M Thompson

Green

A Cooper

Independent

C Greaves

Labour

E Firth
S Hall
N Mather
H Richards
R Walker

Liberal Democrat

R Eastwood
A Munro
A Pinnock

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of Previous Meeting

1 - 4

To approve the minutes of the meeting of the Committee held on 23 November 2018.

3: Interests

5 - 6

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Kirklees Hackney Carriage and Private Hire Licensing Policy

7 - 130

The Committee to consider the adoption of the overarching Kirklees Hackney Carriage and Private Hire Policy, taking into account any consultation responses.

Officer: Russell Williams, Group Leader Licensing Public Protection, Samantha Lawton, Operations Manager – Public Protection (Licensing), TEL: 01484 221000

8: Taxi & Private Hire Licensing - New Statutory Guidance from the Department for Transport

131 -
172

The Committee to receive a report which provides information of a consultation currently being undertaken by the Department of Transport on new statutory guidance in relation to the licensing of the private hire and hackney carriage trades.

Officer: Russell Williams, Group Leader Licensing Public Protection, Samantha Lawton, Operations Manager – Public Protection (Licensing), TEL: 01484 221000.

Contact Officer: Carol Tague

KIRKLEES COUNCIL

LICENSING AND SAFETY COMMITTEE

Friday 23rd November 2018

Present: Councillor Carole Pattison (Chair)
Councillor Mahmood Akhtar
Councillor Karen Allison
Councillor James Homewood
Councillor Terry Lyons
Councillor Amanda Pinnock
Councillor Mohan Sokhal

Apologies: Councillor Christine Iredale
Councillor Michelle Grainger-Mead
Councillor Mumtaz Hussain
Councillor Manisha Roma Kaushik
Councillor Cathy Scott
Councillor Kath Taylor
Councillor Michael Watson

1 Membership of the Committee

Apologies for absence were received from Councillors Michelle Grainger-Mead, Mumtaz Hussain, Christine Iredale, Manisha Roma Kaushik, Cath Scott, Kath Taylor and Michael Watson.

2 Minutes of Previous Meeting

The Minutes of the meeting of the Panel held on 10 October 2018 were approved as a correct record.

3 Interests

No interests were declared.

4 Admission of the Public

That all agenda items be considered in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Licensing Service - Update Report

The Committee received a report which provided an update on the activities undertaken by the Council's Licensing Service from 1 April 2018 to 31 October 2018.

Licensing and Safety Committee - 23 November 2018

Members noted the work carried out in relation to the Licensing Act 2003 and were advised that 143 applications had been processed by the Service and 13 applications had been considered by the Licensing Panel since 1 April 2018.

In response to a question regarding the propensity of hearings related to premises in Huddersfield, it was noted that Dewsbury was currently undergoing a programme of regeneration and it was anticipated that there would be a rise in applications following this investment. There had also been a number of applications in the district where representations had not been received, so these had not been referred to the Licensing Panel. The Committee requested that future reports included a breakdown of applications by districts.

In summarising the work undertaken in relation to the Gambling Act 2005, the Committee were informed that the Council had undertaken a review of its 'Statement of Licensing Policy (Gambling)' and the results of the consultation on the revised policy were due to be considered by the Committee later in the meeting. Officers had taken part in a number of targeted multi-agency operations on known problem premises and this had resulted in a premises licence being revoked and a further licence being placed before the Licensing Panel for review in November 2018.

With regards to Hackney Carriage and Private Hire, it was noted that there had been a steady flow of new applications, with 5335 licenses currently in force.

In response to questions regarding licence renewal following the cessation of renewal reminder letters, it was noted that 1400 licenses had been renewed between January – September 2018 and 15 had lapsed. Where a license had been allowed to lapse, the application would be treated as a new application and incur the associated costs and training requirements. However, it was noted that each case would be judged on individual merit to determine if there were exceptional circumstances. A new computer system was due to be introduced shortly and consideration would be given to the introduction of reminder emails.

There was currently an option to renew a licence on a 3 yearly basis but the majority were renewed annually. Whilst the overall cost was cheaper if renewed over 3 years, the upfront payment required could be seen as a deterrent. The Committee were advised that it was not possible to offer payment by instalment as the fee formed part of the application. It was hoped to move to a standard 3 year licence renewal given the costs and efficiency benefits, particularly in relation to appointment times and staffing resources. This would see mutual benefits moving forward, as cost benefits would be passed on to the trade through license fee reductions.

Officers, in conjunction with the Chair of the Licensing and Safety Committee, had continued to work with the hackney carriage and private hire trades to ensure that effective communication and consultation took place. Officers would continue to look at other processes and streamline where possible, but only if public safety would not be affected.

Licensing and Safety Committee - 23 November 2018

With regards to complaints and enforcement, it was reported that there had been 56 complaints in relation to taxis, 8 concerning licenced premises, 255 service requests to officers and 4 prosecutions.

The Committee were advised of a number of national issues, which included legislation regarding fixed odd betting terminals, the Department for Transport's review of the currently regulatory regime for taxis and private hire as well as HRMC plans to introduce mandatory tax registration for certain licence types.

RESOLVED - The Committee noted the report.

8 **Review of Licensing Policy Statement (Gambling)**

The Committee received a report which set out the results of the consultation on the Council's draft Licensing Policy Statement (Gambling) and sought the Committee's recommendations to Council for adoption.

As agreed at the Licensing and Safety Committee on 10 September 2018, a consultation on the draft Licensing Policy Statement (Gambling) had been completed. The Committee were informed that 3 responses had been received and these responses had been taken into account in the revised draft policy.

The Licensing Service had worked with Public Health to develop a Local Area Profile (LAP), which provided an assessment of the key characteristics of Kirklees in the context of gambling-related harm. The information presented helped to provide a better understanding of the types of people that may be more vulnerable to gambling related harm and where they were located.

The Committee referred to the Gambling Commission's recent report which highlighted an increase in young people gambling. In response, it was noted that the rise was primarily in areas where gambling was not regulated, such as on-line gaming. It was agreed that consideration would be given as to how the data in the LAP could be interrogated to provide information regarding this specific age group.

In considering the Local Risk Assessment, the Committee noted that the ethnic profile of residents in an area would be considered in conjunction with a number of other risk factors, such as deprivation and the demographics of an area in relation to vulnerable groups and further work would take place with Public Health as to the weighting of risk factors.

With regards to the submission of applications, it was noted that there were opportunities to put additional support in place. One such example was where Leeds City Council recently saw a gambling establishment provide funding to a nearby gambling addiction centre.

The importance of working with schools was highlighted and the Committee were informed that it was planned to include this in the Service's work programme once the new licensing staff were in post.

RESOLVED - That the Committee considered the responses to the consultation and revised policy and recommended Council to approve the revised policy as the new Licensing Policy Statement (Gambling) for the next three years.

9 Designated List of Wheelchair Accessible Vehicles

The Committee received a report which requested that Members consider the publishing of a designated list of wheelchair accessible hackney carriage, private hire vehicles and commercial vehicles available for hire.

Members were advised that Section 167 of the Equality Act 2010, which came into force in April 2017, provided the Council as a licensing authority with the power to make a list of wheelchair accessible vehicles (designated vehicles). Once the list was published, a number of duties were placed on drivers of designated wheelchair accessible cars, including the duty to carry the passenger while in the wheelchair, offer reasonable assistance and not make any additional charges.

The requirements did not apply to drivers with a valid exemption certificate and Section 166 of the Act allowed the Council to exempt drivers on medical grounds or because the driver's physical condition made it impossible or unreasonably difficult for them to comply with the duties outlined.

Members were informed that unless a driver was exempt, it was a criminal offence not to carry out these duties and the Council would follow up any complaints in relation to this. If justified and the complaint could be proven, the Council would take appropriate action.

RESOLVED -

(1) That the Council produce a list of designated wheelchair accessible vehicles pursuant to sections 165-167 of the Equality Act 2010; and

(2) The licensing authority produces guidance in relation to this, including the exemption of drivers from their duties based on medical grounds.

KIRKLEES COUNCIL				
COUNCIL/CABINET/COMMITTEE MEETINGS ETC				
DECLARATION OF INTERESTS				
Licensing and Safety Committee				
Name of Councillor				
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest	

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Name of meeting: Licensing and Safety Committee

Date: 13 March 2019

Title of report: Kirklees Hackney Carriage and Private Hire Licensing Policy

Purpose of report:

The purpose of this report is, following consultation, for Members to consider adopting the overarching Kirklees Hackney Carriage and Private Hire Policy, taking into account any responses to the consultation.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name	Karl Battersby
Is it also signed off by the Service Director for Finance IT and Transactional Services?	Strategic Director – Economy and Infrastructure
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	
Cabinet member portfolio	Councillor Naheed Mather

Electoral wards affected: All

Ward councillors consulted: All

Public or private: Public

1. Summary

- 1.1 The Kirklees Hackney Carriage and Private Hire policy has been developed to ensure the public can be confident the service is meeting its safeguarding duties, ensuring passenger safety is not compromised and delivering a much better service for our customers.
- 1.2 This policy draws together all current aspects of hackney carriage and private hire licensing setting out required standards, expectations, conditions, processes and relevant policies.
- 1.3 A copy of the draft policy can be found at **Appendix I** to this report.

2. Information required to take a decision

- 2.1 In May 2018, the Licensing service began the process of developing an overarching policy encompassing all the different aspects of hackney carriage and private hire licensing; having such a policy is recommended and seen as good practice by the Local Government Association and the Department for Transport.
- 2.2 On the 11th October 2018 at the meeting of the Licensing and Safety Committee, a proposed policy was presented to Members, who gave authority for officers to consult on the draft policy.
- 2.3 Whilst the policy drew together all current aspects of taxi and private hire licensing including setting out required standards, expectations, conditions, processes, some changes were also proposed and consulted on.
- 2.4 Two of the most significant changes related to a new policy regarding the fitness and suitability of drivers and a new driver training policy. Both of these policies have been developed in conjunction with other West Yorkshire (including York) authorities. Members should note, that these two policies will now be presented to a future Licensing and Safety Committee
- 2.5 At the same time consultation also took place on the following changes which are specific to Kirklees.

Driver Conditions

- 2.6 Two conditions were added to the Driver Conditions at 'Appendix (B)' to the policy which supported and followed the Department for Transport recommendations in the recent task and finish working group report. These are numbered at 21 and 22 in Appendix B.

Emissions

- 2.7 The proposed policy included adopting a revised standard for testing hackney carriage and private hire vehicles. All hackney and private hire vehicles are subject to a compliance test which is additional to the MOT Test and is carried out by the Council to locally developed standards. Tests are conducted upon first licensing of a vehicle and then annually upon renewal.
- 2.8 The proposal to revise the policy was primarily influenced by the Council's adoption of the West Yorkshire Low Emissions Strategy 2016- 2021. Kirklees signed up to the strategy in December 2016 following its development by West Yorkshire local authorities and Public Health England. The strategy sets out key measures to improve

air quality across the region that include the introduction of Clean Air Zones and tackling emissions from buses, lorries and taxis.

- 2.9 In general Air Pollution is improving nationally. However, as with most industrialised towns, cities and urban areas emissions from road transport is increasing as traffic and congestion increases. Hot spots of pollution are created where housing is in close proximity to the heavily used road network.
- 2.10 In Kirklees these hot spots or Air Quality Management Areas (the legal definition) have increased from 2 in 2016, to 9 in 2017 and will be 10 in 2018. The pollution in these areas has either increased or not improved in line with the general improvement in Air Quality as the general improvements have been led by reduction in industrial emissions. Kirklees has increased its monitoring networks, which has led to the identification of these hot spots and we keep a watching brief over other areas. The only way to resolve these hot spots of pollution is to reduce emissions from road transport.
- 2.11 Over the years the vehicle manufacture and the type of vehicles the trade would like to use has altered and it seemed timely, to review the vehicle testing policy in relation to emissions to ensure it reflects best practice and encourages vehicles of the best possible standards on to the fleet.

- 2.12 The proposed changes in relation to vehicle standards consulted on were:-

Introduction of an Emissions Policy linked to Euro Standards

- 2.13 The Council are looking to encourage the use of low emission vehicles, including electric vehicles. In order to support this the Council are working with West Yorkshire Combined Authority to install a network of electric charging points for electric vehicles to utilise. Kirklees has also signed up to the West Yorkshire Low Emissions Strategy 2016-2021 which has prioritised a reduction in harmful emissions from taxis. Additionally modern engines are more efficient and can therefore achieve the same output as older vehicles with smaller engine capacities.
- 2.14 It is proposed that this section of the policy will be implemented from 1st April 2020 and all new vehicles will need to meet Euro 5 standards for petrol engines and Euro 6 standards for diesel engines. The future date allows existing licence holders time and opportunity to purchase a new vehicle that meets the new standard.

Removal of the lower age limit

- 2.15 Vehicles must currently be under 6 years old at first licensing. The service currently has an upper age limit of 10 years or 12 years for purpose built hackney carriage vehicles and multi seater/wheelchair accessible vehicles. It is proposed the upper age limit remains and there would be no lower limit. This would mean vehicles older than a 65 plate for diesels and 60 plate for petrol would fail the proposed emissions requirement.
- 2.16 It is proposed the new emissions policy would apply to new applications only and the remaining vehicle specification would remain unchanged for existing vehicles whilst further discussions with the West Yorkshire Authorities are ongoing.
- 2.17 However, the proposed emissions policy would apply as vehicles cease to be licensed once they reach the anniversary of their 10 year registration, as such, each year a number of vehicles would have to come onto the licensed fleet that would meet the proposed emissions standards, which would allow constant increase and uptake in the revised standards ensuring a cleaner and greener fleet over the next few years.

- 2.18 The introduction of the revised vehicle standards would also support the corporate outcome of people in Kirklees experiencing a high quality, clean, sustainable and green environment.

Upper Age Limit

- 2.19 As a result of discussions with trade members and as a result of the consultation, officers have agreed to look at the Council's current policy in relation to the age upon which a licensed vehicle will cease to be licensed.

- 2.20 Currently this policy stands at –

Hackney Carriage/Private Hire vehicles over ten years of age will be refused further licences.

That the only exemption to the maximum age limit of ten years will be applied to London cab type vehicles, the maximum age for such vehicle will be fifteen years. Any other wheelchair accessible vehicles used for Hackney Carriage purposes to be licensed to a maximum of twelve years.

- 2.21 Officers are proposing to work with the trade and Fleet Services on a review of this upper age limit, with a view to a further report being presented to the Licensing and Safety Committee within the next three months.

Online Disclosure Barring Service

- 2.22 It is proposed that it be mandatory that all applicants for a private hire / hackney carriage drivers licence, whether new or on renewal, be automatically signed up to the DBS Online update service. This proposed changes will streamline the process of applying for a licence and will ensure the authority is taking the necessary steps to ensure the travelling public are safe.

3 Implication for the Council

3.1 Working with People

The purpose and vision of the changes is to ensure there is a raising of standards and skills amongst licensed drivers in order to protect the travelling public, ensure people across West Yorkshire are transported safely and protected from harm. The aim is that people in Kirklees experience a high quality, clean, sustainable and green environment, as well as improve the customer experience.

3.2 Working with Partners

In developing its policies the licensing services have worked with a number of partners, including, Kirklees Safe Guarding Children's Board, West Yorkshire Police, Public Health, Environmental Health, Overview and Scrutiny Committee, Community Safety Partnership and other West Yorkshire Authorities (including York).

3.3 Place Based Working

The proposed policy brings together into one place a number of existing policies. The changes outlined in this report, seek to address some of the issues surrounding air-quality within Kirklees.

3.4 Improving outcomes for children

The Council wants to ensure children have the best start in life and to ensure that the people of Kirklees feel safe and are protected from harm. The Council has a duty to protect the travelling public and safeguard children travelling in licensed vehicles and in particular for the purposes of school transport.

3.5 Other (e.g. Legal/Financial or Human Resources)

Legal

The principle legislation is the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The purpose of taxi licensing is detailed in the Department for Transport “Taxi and Private Hire Licensing Best Practice Guide” paragraph 8 which states: “The aim of local authority licensing of the taxi and Private Hire Vehicle (PHV) trades is to protect the public.”

Taxi and Private hire vehicle licensing in England and Wales is undertaken by licensing authorities, which have the responsibility for ensuring that the public travel in safe, well maintained vehicles driven by competent drivers; as well as providing a fair and reasonable service for the taxi and private hire vehicle trade. Council’s following best practice will meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistent and robust in decision making.

Equality Implications

The Equality Act 2010 creates the Public Sector Equality Duty (PSED) and in order to fulfil the PSED the Council is required to assess the impact of any proposed action on the equality objectives set out above. The way in which the Council approaches this task is to conduct Equality Impact Assessments (EIA).

A stage 1 Equality Impact Assessment has been completed and is available <http://www.kirklees.gov.uk/youkmc/deliveringServices/impactAssessments/impactassessments.asp>

In summary the assessment is that the level of impact is low although it is acknowledged from day to day contact and interaction with drivers it will impact mainly upon men of Asian ethnic background.

4. Consultees and their opinions

4.1 Consultation took place online on this policy between October 2018 and January 2019. A total of 10 responses were received from trade / licence holders and members of the public. Those responding were asked to consider the policy and provide comments. Copies of those responses can be found at **Appendix II**, including the Councils response.

- All Licensed Private Hire Operators
- All Licensed Drivers
- Trade Representatives
- All Councillors
- Kirklees Safeguarding Children’s Board

- Kirklees Safeguarding Adults Board
- West Yorkshire Police
- Public Health Board
- Kirklees Community Safety Board
- NHS North Kirklees
- Greater Huddersfield CCG
- Members of the Public

4.2 In addition, responses were received from partnering agencies / internal departments, these are attached to this report as **Appendix III** and include the licensing service response.

5. **Next steps and timelines**

The next steps are for Members to consider the responses to the consultation and the changes made to the policy as a result of that consultation

6. **Officer recommendations and reasons**

6.1 Members are recommended to consider the report and appendices and adopt the draft policy as presented at **Appendix I** from the 1st April 2019.

6.2 The responses to the consultation have been fully considered by officers and the only amendment to the draft policy (Appendix 1) is on Page 7 in the paragraph referring to the Kirklees Safeguarding Board. This has been updated as per the consultation response from the Board in **Appendix III**. It is clear from the responses received that there is significant support for the introduction of an overarching policy as the majority of the responses are in favour of the policy.

6.3 The Council has not made changes where the responses outlined are already being considered in draft policies as part of a wider piece of work with the West Yorkshire and York authorities or they are already in place within the Service.

6.4 Members are asked to delegate authority to the Head of Public Protection to make minor changes to the policy should these be necessary, in relation to updating of processes, legislation, service name changes or grammatical errors.

7. **Cabinet portfolio holder's recommendations**

7.1 Councillor Naheed Mather is in support of the introduction of the policy.

8. **Contact officer**

Russell Williams
 Group Leader - Licensing
 01484 221000
russell.williams@kirklees.gov.uk

Samantha Lawton
 Operations Manager – Public Protection (Licensing)
 01484 221000
samantha.lawton@kirklees.gov.uk

9. **Background Papers and History of Decisions**

- Report to Licensing and Safety Committee – 11th October 2018
<https://democracy.kirklees.gov.uk/documents/s24810/Item%207%202018-10-11%20Licensing%20Report%2011%20Oct%202018%20002%20002.pdf>
- Report to Licensing and Safety Committee – 18 January 2016
<https://democracy.kirklees.gov.uk/documents/s9165/Licensing%20and%20Safety%20002%2018%20Jan%202016%20-%20Constitution%20Taxi%20and%20Private%20Hire%20Vehicles%20-%20Report%20delegat.pdf>
- Background Papers: Institute of Licensing – Guidance on determining the suitability of applications and licensees in the hackney and private hire trades

10. **Strategic Director responsible**

Karl Battersby
Strategic Director - Economy and Infrastructure
karl.battersby@kirklees.gov.uk
01484 221 000

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Responses from trade / licence holders

1.

3) That the only exemption to the maximum age limit of 10 years will be applied to London cab type vehicles, the maximum age for such vehicle will be 15 years. Any other wheelchair accessible vehicles used for Hackney Carriage purposes to be licensed to a maximum of 12 years.

This pointer seems very unfair and I perceive it to be giving preferential treatment to Hackney Carriage cab type vehicles.

The cost of a vehicle to buy and put on the road after it has been modified to capacitate wheelchair tail lifts and moveable seats to allow changes in configuration of seating starts upwards of £45,000.

My concern isn't in general but specifically disabled access vehicles. I have spoken with several local authorities and they don't seem to restrict vehicles up to the age of 12 years as you do in Kirklees

Greater Manchester allow any vehicle to be registered up to 6 years of age and if the vehicle passes the MOT by the local authority MOT Centre the vehicle is granted a license. They have no restriction upon the age of the vehicle as long as it passes the MOT and is in good repair and condition.

Taking depreciation into account, a company can't simply afford to make the costs back from such a vehicle.

The vehicles are committed to school runs hence finding work in the interim period is difficult and this also gives us a substantial amount of down time in the holidays but if the age restriction was modified this would give us a better chance of being able to keep investing in disabled accessible vehicles.

Kirklees contracts are tendered, individuals and companies are competing for the lowest amount and then the vehicle can only be used for 12 years will eventually have a detrimental impact.

Eventually it is going to be unaffordable to accommodate and run these services.

The severity of this should be considered seriously.

Increasing the age to 15 years would be beneficial but discriminating a vehicle because of its age is unfair. If the vehicle is in good working order, is maintained to a good standard and passes stipulated requirements why shouldn't they have an extended period they can work as a private hire vehicle?

	<p>Adopting an initiative such as Greater Manchester would help companies utilise vehicles they have invested a substantial amount per vehicle.</p> <p>Councils Response</p> <p>The Council note the concerns raised about the upper age limit for licensed vehicles and officers will be looking into this issue over the coming months as referred to in paragraph 2.19 – 2.21 of the attached report.</p>
2.	<p>My only comments are as follows :</p> <ol style="list-style-type: none"> 1. Who regulates Kirklees Council’s employees who may or may not determine a person is fit and proper to hold a licence. How does the general public have confidence the Licensing Department is fit for purpose? 2. Is there really a need for “Local Knowledge Test”? Is this just for the quickest routes? If so surely technology in the shape of satnav and/or driverless cars negates the need for that. If it is local knowledge who determines what each driver/operator should know? If you provide a list you will open yourself to court action if you miss someone or something from that list <p>Do as you will with these comments.</p> <p>Councils Response</p> <p>The Council note the respondent’s comments. In relation to the ‘Local Knowledge Test’ this is part of the driver training policy which will be presented to a future Licensing and Safety Committee, where the respondent’s comments will be taken into account.</p>
3.	<p>I have no comment or question regarding about your letter</p> <p>Councils Response</p> <p>The Council note the respondent’s comments.</p>
4.	<p>I have been approached by the Kirklees drivers who are worried of the congestion charges which will be applied in big cities such as Manchester , Leeds etc. The cost of Electric, petrol hybrid, LPG vehicles are extortionate.</p> <p>Exemption will only be for Electric, petrol hybrid, LPG vehicles otherwise a cost of £12.50 daily to drop off in Leeds city centre.</p>

	<p>Recently Leeds city council have change their bylaws and now allow: Electric, petrol hybrid, LPG vehicles to be licensed upto 7 years old and can run upto 12 years old....previously it was 5 years on entry level and would run upto 10 years old.</p> <p>Leeds is a bigger city which a lot of captive audience.</p> <p>Would Kirklees Allow : Electric, petrol hybrid, LPG vehicles to be licensed upto 8 years old and allow to be licensed till 13 years as in Kirklees we don't do as many miles in comparison to Leeds taxi drivers.</p> <p>Also Leeds city council give a full 12 months licence even if you just have 1 day left for it to become its last age that it can be licensed. Eg: if we have a 11 years and 11 months old hybrid and licence has expired but has 1 month left for it to become 12 years old then Leeds would give full 12 months vehicle licence. I await your response</p> <p>Councils Response</p> <p>The Council note the concerns raised about the upper age limit for licensed vehicles and will be looking into this issue over the coming months as referred to in paragraphs 2.19 – 2.21 of the report.</p>
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Responses from Members of Public	
5.	<p>Please find below a response to your request in the Huddersfield Daily Examiner, dated 26/12/18, for residents views relating to Kirklees Taxis.</p> <ol style="list-style-type: none"> 1. In an ideal world anyone belonging to a group or organisation, however loosely they are alligned, who regard females as second class citizens would never be permitted to be in a one to one situation with either a vunerable girl or lady. 2. Again, in an ideal world anyone belonging to a group or organisation, however loosely they are alligned, who view dogs as vermin, in a nation of dog lovers, would never be permitted to be responsible for what is in some instances, a vital means of transportation. 3. At least 50% of the instances of inconsiderate and overly aggressive driving encountered by friends and family in Kirklees is the result of taxi drivers. <p>In the above three points I have attempted to be as diplomatic as possible.</p> <p>Councils Response</p> <p>The Council note the respondent's comments. All applicants for a private hire / hackney carriage licence are considered on an</p>

	<p>equal basis against a criteria set by legislation and local policies. Where an applicant falls below the required standard an application will be refused.</p>
6.	<p>I would like to see with regard to the Taxi "Hackney Cab" and the Private Hire Drivers more spot checks on the Drivers and the Vehicles.</p> <p>1: More checks with regard to vehicle maintenance, and drivers documentation and cleanliness of the vehicles.</p> <p>2: More checks with regard to the carrying of disabled passengers, such as blind people with guide dogs.</p> <p>3: It would be of great benefit if those applying for a Taxi "Hackney Cab" or Private Hire License had to take a test on the knowledge of the area within Kirklees Council Area. "A mini London knowledge test"</p> <p>4: Drivers class themselves as "Professional" yet the "Private Hire" Drivers I have had the experience of traveling with and seeing on an almost daily basis is disgusting.</p> <p>a: Speeding</p> <p>b: Using Mobile Phone while driving.</p> <p>c: Failing to Indicate a maneuver.</p> <p>d: Not adhering to road signs.</p> <p>5: A picture of the driver and his license should be visible to the passengers being carried.</p> <p>6: If the Private Hire Drivers want to be classed as "Professional Driver" then they need to act and look Professional.</p> <p>I have no problem with the "Professional" Taxi "Hackney Cab" Drivers . . . !</p> <p>To Summarise the "Hackney Cab" Taxi Drivers are of a far more "Professional" standard than the "Private Hire" Drivers. I believe it is the "Private Hire" side of the Licensing system that needs tighten up.</p>

	<p>Councils Response</p> <p>The Council note the concerns raised and can state that the Licensing Service does already undertake multi-agency operations and conduct both planned and random inspections of licensed vehicles. The proposed changes in the policy will seek to strengthen these operations.</p>
7.	<p>Dear Sirs</p> <p>I am responding to an item in the local paper about the licensing of taxis and private hire vehicles.</p> <p>I have been unhappy for some years about the standards which have been allowed to become the 'norm' regarding the above, and the recent convictions of some of the people entrusted with these licenses has provoked me to respond to this item.</p> <p>Some men were convicted. Some were not. Some knew about what was going on, and for various reasons did not help the victims. For this reason I will never again ride in a taxi where I believe the driver to be complicit in these crimes.</p> <p>I believe that Kirklees Council does not investigate these drivers further because it (the council) would find it difficult to fulfill its commitments to conveying children to school where transport is not normally provided. In other words, to vulnerable children. To vulnerable children. Yes. I repeated that.</p> <p>My own experiences of unsatisfactory taxi/private hire journeys have been few because of the following:</p> <p>Driver going through a red light with me in the back seat. (Calderdale Hospital to Honley)</p> <p>Driver leaving the pre-arranged pick-up point (Calderdale Hospital) before my seat-belt was fastened, and when I complained that it would not work, he said it must just have been broken.</p> <p>Driver talking to me in derogatory language.</p> <p>Driver telling me that the taxi was his brother's... that he had been 'on' since 4am (this was around 5pm) .. skidding all over the road and not understanding why, despite the fact that there was an inch of snow on the road. (Huddersfield Station to Honley)</p> <p>Driver being unacceptably rude to my 80+ year old parents, (Huddersfield Station to Honley) after a long journey from the south coast when they were very tired, and then turning Asian music so loud that my parents were uncomfortable. Being politically incorrect and insulting them and driving dangerously fast around the bends between Lockwood and</p>

	<p>Honley, and frightening them.</p> <p>Driver persisting on asking me personal questions about why I was divorced, despite telling him I did not want to discuss the subject.</p> <p>Driver discussing a friend of his who had been arrested for terrorist activities and who came from Crosland Moor. I found this very uncomfortable.</p> <p>A car in which I felt the suspension was not working.</p> <p>I am asking that Kirklees Council stand up to what is going on. I am not the only person to notice these things. Taxi drivers should have a clean license. They should drive carefully and safely. Their cars should be maintained and safe. They are taking money from people on trust that their lives are safe. If the drivers have any convictions, they should not be granted a license. I do not, and I do not want anyone I care about, to get into a car with a felon. I and everyone in Kirklees should be able to trust the driver to be a person who will take my life from here to there. My life. Do you get that?.</p> <p>Councils Response</p> <p>The Council note the concerns raised and can state that the Licensing Service takes its safeguarding duties seriously and investigates any and all concerns raised. Once an investigation is completed the appropriate action is taken against licence holder. The proposed policy seeks to strengthen this position.</p>
8.	<p>Following the recent article in the Bradford Telegraph and Argus regarding '<i>Residents asked for views on Kirklees taxis</i>', my personal view is that the biggest threat to public safety is that of the vehicle emissions generated by our local taxi fleet. The health impacts of poor air quality caused by vehicle emissions such as increased nitrogen dioxide are now well documented and areas of Kirklees now exceed the national air quality standards regarded as being 'safe'. Taxis contribute a disproportionately high amount to poor air quality given their high mileage and age of many vehicles.</p> <p>I would like to see a progressive policy of linking future Taxi licencing to a switch to low emission vehicles as has been the case in Nottingham. Under Nottingham City council's Taxi Strategy, all hackney cabs licensed from 2020 must be at least Euro 6 emissions standard, and from 2025 only Ultra Low Emission Vehicles (ULEVs) will be registered:- https://www.transportnottingham.com/driving/electric-taxi-trial/</p> <p>Councils Response</p>

	<p>The Council note the concerns raised about emissions and the proposed policy seeks to address some of these concerns. Officers have given a commitment to look at other aspects of the vehicle specification over the coming months.</p>
9.	<p>For my tw'penneth worth and experience I rarely use taxis anymore.</p> <p>1/ My reason, terrible driving standards, I have repeatedly had to tell drivers to slow down or to drive more safely, one driver was doing almost 60 in a 30 with myself my wife and my 9yr old son in. I told him to slow and he didn't, I ended up making him stop, we got out and I refused to pay.</p> <p>2/ old skanky cars, not clean, rattling and rusty.</p> <p>3/ cash only drivers? I've also been refused to be given receipts when asked.</p> <p>My solution.</p> <p>1/ personally I think all public drivers should be made to complete and Advanced driving test with the institute of advanced drivers, I also think more frequent and random stop checks by KMBC should be conducted to stop unofficial drivers standing in for friends and families. I also think drivers should be monitored for driver hours as quite a few do taxiing in between long shifted jobs.</p> <p>2/ again, my opinion, cars should only be used up to 3yrs from new, that way there are no questionable own or back street repairs done. (I'm sure main dealers would do special terms for cabbies)</p> <p>3/ customers should be given an opportunity to pay via card if they so require, and all drivers should record and give receipts when requested.</p> <p>Hope this may help in some way</p> <p>Councils Response</p> <p>The Council note the concerns raised and can state that the Licensing Service already undertake multi-agency operations and inspections of licensed vehicles. The proposed changes in policy will seek to strengthen these operations.</p>
10.	<p>Taxi drivers should come under the same scope as HGV AND PSV drivers .45 hours a week driving 90.hours a fortnight driving .taxi drivers should have to have a CPC and keep.it up.to.date or loose your right to drive a taxi .these rules aply to.HGV and PSV drivers .this will.make taxi drives s profesernal.like .HGV AND PSV DRIVERS .and driving regs will.be the same as HGV AND PSV DRIVERS .VOSA WAS LOOKING ON DOING ALL.OF ABOVE .TO GET RID OF THESE COWBOY TAXI DRIVERS .IT IN</p>

	<p>THE PUBLIC INTREST AND MOST OF ALL.SAFTY OF THE GENERAL PUBLIC . AND YOU KIRKLESS WILL.NOT BE HELD TO.RANSOM.WHICH TAXI DTIVERS DO .IF YOU SAY ANY THING ABOUT CHANGE IE BLOCK.ROADS WITH THERE TAXIES THIS MUST STOP. YOURS BOB .HGV .PSV CPC HOLDER .RETIED</p> <p>Councils Response</p> <p>The Council note the concerns raised and can state that the Department for Transport have made recommendation that the number of hours a taxi / private hire drivers works should be considered by the Government. The Government have recently responded to confirm they will look into this matter further, and officers await the outcome.</p>
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West Yorkshire Police

West Yorkshire police, covering the Kirklees area, would like the following points to be considered and hopefully included in the new taxi licensing policy.

- 1) CCTV to be installed and permanently recording when the vehicle is being used as a taxi or private hire.
- 2) The policy regarding granting or reviewing taxi licenses should be reworded to cover police intelligence and occurrences as opposed to just solely driver's previous convictions. Some drivers have been over the drink drive limit when stopped, however have managed to avoid conviction purely on technicalities. In the new policy drivers and renewal application, the driver must give written consent they do not object to the licensing authority requesting all information held by West Yorkshire, not just convictions but intelligence and involvement with the police.
- 3) All taxi licences are revoked and new grants are not considered if the driver has 7 points or more on their licence.
- 4) All vehicles used as taxi or private hire cars will be clean, tidy and well presented, both internally and externally. All must be mechanically sound and not pose any risk to other road users or passengers.
- 5) Any communication devices used such as mobile phones must be legal to use when the vehicle is in motion.
- 6) Any driver convicted of using their mobile device such as a phone while driving, should have their licence revoked.
- 7) Drivers should be smart and well presented, they are in a way ambassadors for the Kirklees area, people travelling into our area requiring the service of a taxi or private hire should feel that Kirklees is a place worth visiting and are left with a positive image of our towns and our transport infrastructure.
- 8) All drivers must inform the licensing authority of any convictions, no matter what the conviction is for, some minor convictions may be considered irrelevant by the driver, but could demonstrate he/ she is not a fit and proper person. Failure to notify the relevant authority should lead to the licence being revoked.
- 9) All drivers must complete a mandatory refresher training course when their licence is due for renewal. The training should cover relevant and current legislation. Issues such as:
 - 1) Disability legislation, transportation of persons with limited mobility, guide dogs or young persons with learning difficulties.
 - 2) C.S.E issues and how to help vulnerable children.
 - 3) How to help and assist the more vulnerable members of our society, such as the elderly.

Councils Response

The Council welcomes the suggestions made by West Yorkshire Police, and can respond to say that the suggestions made are currently being considered as part of a wider project being undertaken by the West Yorkshire (inc York) Licensing Group to harmonise policies across the region.

Kirklees Council Community Safety Board

The board welcomed the policy and asked that driver training be linked into the Council's Safer Adult Board and Modern Day slavery. The board welcomed the partnership approach being taken in developing policies. The Board asked that links be made to the wider area including bordering authorities in Greater Manchester such as Oldham and Rochdale.

Councils Response

The Council have noted the Boards comments and officers will seek to establish and strengthen links with other bordering authorities.

CSE / Missing Operational Group

The group were fully supportive of the policies being put forward.

Council's Response

The Council welcomes the groups support.

Kirklees Safeguarding Adults Board

I would suggest amending the section at the bottom of P7 to read as follows:

'Kirklees Safeguarding Policies (Adults and Children)

The licensing authority considers the Kirklees Safeguarding Children Board to be the primary recognised body competent to give advice on the protection of children and the Kirklees Safeguarding Adult's Board to give advice on protection of vulnerable adults. For the purposes of this policy a child is someone under the age of 18 years and vulnerable adult is someone over the age of 18 with care and support needs.

The Kirklees Safeguarding Children and Adult Boards take a positive and supportive view of this role and where possible, are committed to working in partnership with the licensing authority. The licensing authority will also work in partnership with internal services. Public Health and Protection Board and other relevant partners to develop good guidance and share information to promote public safety and safeguarding vulnerable passengers.

Councils Response

The Council see no reason not to make the changes suggested by the Board, and have amended the relevant sections of the policy.

Kirklees Safe Guarding Children's Board

The Board welcomed the comprehensive nature of the policy, and noted the approach to strengthened diligence, including training, vetting, ongoing monitoring and sanctions

The board encouraged and supported the use of 'soft' intelligence, while recognising that for some individuals this may prove challenging, the Board took the view that they supported this approach. It was the Boards view that the safeguarding of the most vulnerable outweighed the individual human rights aspects.

The Board were encouraged by the parallel work to educate, raise awareness and inform; and that the Board would raise this with West Yorkshire colleagues

The Board welcomed that the policy encompassed all providers including independent companies.

Councils Response

The Council welcomes the suggestions made by the Board, and its support. Officers can respond to say that the suggestions made are being considered as part of a wider project being undertaken by the West Yorkshire (inc York) Licensing Group to harmonise policies across the region. The Licensing service has agreed to attend the Board to discuss potential campaigns and raising awareness in relation to relevant licensing issues and safety of the public.

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Kirklees Council
Hackney Carriage and Private Hire Policy

Contents

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Foreword

We are proud of Kirklees and the diverse and vibrant area it is. We are ambitious for the place and our people and as an authority want to celebrate all that makes Kirklees special. We would like Kirklees to be a safe and cohesive place and for people to be protected from harm. This includes the provision of licensed vehicles which are valued by residents, visitors and businesses. It is important that these operate lawfully and sensitively, taking into account the needs of the customers and the wellbeing of nearby residents and people enjoying other activities.

In Kirklees we will use this policy to guide the licensed trade and new applicants when making applications under the relevant legislation and to assist officers in reaching decisions on those applications that they consider.

This is a robust policy that raises standards in Kirklees. Our intention is to both protect the public and to safeguard children and the vulnerable. The policy is designed to promote and improve professional standards and behaviours amongst licensed drivers, to increase an awareness of safeguarding issues and to ensure those that share the Council's vision and commitment to achieve a high standard to thrive.

At the heart of this policy is a commitment to:

- Protect the public
- Safeguard children and the vulnerable
- Prevent crime and disorder
- Prevent public nuisance
- Provide safe and green streets

This document sets out Kirklees Council's general approach to the licensing of private hire and hackney carriage drivers in the town which supports the Council's priorities:

- Children have the best start in life
- Clean and Green
- Safe and Cohesive
- Sustainable economy
- Aspire and Achieve
- Well
- Efficient and effective

We aim to ensure that licensed drivers operating in Kirklees are of the highest quality and can be held to account for their performance.

The Council recognises the important role that the hackney carriage and private hire trade play in enabling people to travel round the area and in doing so they also have a role in portraying the image of the area.

Policy Date -

We are committed to building on a partnership approach with the licensed trade and will continue to look to improve standards to ensure that Kirklees remains a safe place to visit and enjoy your leisure time and that everyone has a safe and pleasant journey home in our licensed vehicles.

The policy has been subject to an 8 week consultation period and we are grateful to all those who have submitted comments to help shape the final policy.

The Council will implement the policy from 1st April 2019 and officers will keep it under review. A formal review will take place every three years when the policy will be considered by the Licensing and Safety Committee.

Section 1

1.1 Introduction

Kirklees Council is responsible for the regulation of hackney carriage and private hire drivers, vehicles and operators within the Kirklees area. The policy builds on the experience and knowledge we have gained by administering and enforcing the legislation for many years, particularly when addressing issues that may impact on the safety and well-being of our residents, visitors to the district and those working in the district.

This policy and any related procedures and processes will guide the work of Kirklees Council and the way in which it carries out its functions. The policy has immediate effect and will be applied to existing licences and new applications received after the date that the policy is adopted by the Council.

The policy has been developed by Kirklees Council and it has done so in partnership with the West Yorkshire Licensing Committee in relation to the fitness and suitability criteria (Appendix A) and the driver training policy (Appendix C). This is to achieve consistency and clarity across the West Yorkshire region. The policy was also developed after consulting with the West Yorkshire Combined Authority, the trade and the public and sets out the requirements and standards that must be met. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document. However, each application or enforcement action will be considered on its own merits.

1.2 Aims and Objectives

The overriding aim of the Council, when carrying out its functions relating to the licensing of hackney carriage or private hire drivers, vehicles proprietors and operators, is the protection of the public and others who use, or can be affected by, the hackney carriage or private hire services; and the Council will not hesitate to act when it is made aware of issues that have the potential to undermine this aim.

Hackney carriage and private hire vehicles play a vital part in Kirklees' transport network and provide an invaluable service to the borough's residents.

Licensed drivers are entrusted with some of the most vulnerable members of our society, from the very young, to the elderly and infirm and those that may be incapacitated through alcohol or drug use and our communities rely on licensed drivers and their vehicles to provide a safe and reliable service. For some people using licensed drivers is the only way they can access vital services.

Licensed vehicles and their drivers enjoy an anonymity on our roads that is shared only by emergency vehicles. The appearance of a liveried, licensed vehicle, whether

regularly, or otherwise, at any time of the day or night is unlikely to raise any suspicion as to the reason for it being there. As such the Council will, through regulation of the trade, seek to promote the following objectives:-

- the protection of the public;
- prevention of crime and disorder the establishment of professional and respected hackney carriage and private hire trades;
- consideration of accessibility issues across all equality groups in support of the Authority's commitment to the Public Equality Duty and the Equality Act 2010;
- the protection of the environment;
- the council's values and shared outcomes as defined in its corporate plan;

In carrying out its duties in respect of hackney carriage and private hire licensing, the Council will work with a wide range of partners, including but not limited to: -

- Licensed drivers, operators, vehicle proprietors;
- Locally operating hackney carriage and private hire trade associations;
- Local residents;
- West Yorkshire Police;
- Driver and Vehicle Standards Agency (DVSA);
- HM Revenue and Customs;
- UK Border Agency;
- Department for Work and Pensions;
- West Yorkshire Combined Authority;
- The Office of the Police and Crime Commissioner;
- Other Licensing Authorities;
- Local Safe Guarding Children's Board;
- Local Health Protection Board;

In carrying out its duties in respect of hackney carriage and private hire licensing, the Council will have close regard to this policy, its associated appendices and the objectives this policy seeks to promote. Notwithstanding this, each application or enforcement action will be considered on its merits. Should it be deemed appropriate and necessary to depart from this policy the Council will give clear and compelling reasons for doing so.

1.3 Integrated Policies and Strategies

The following plans and strategies have been considered throughout this policy, helping to shape and define the objectives that the licensing authority has set in place for all applicants and licensees involved in the private hire and hackney carriage industry.

Kirklees Corporate Plan 2018 -2020

The corporate plan sets our direction and priorities for the next three years and includes the following priorities:

- **Safe and Cohesive** - People in Kirklees live in cohesive communities, feel safe and are protected from harm;
- **Well** - People in Kirklees are as well as possible for as long as possible;
- **Aspire and Achieve** - People in Kirklees have aspiration and achieve their ambitions through education, training, employment and lifelong learning;
- **Sustainable Economy** - Kirklees has sustainable economic growth and provides good employment for and with communities and businesses;
- **Clean and Green** – People in Kirklees experience a high quality, clean, sustainable and green environment;

How the Licensing Service will contribute:

- Promote good health and assist in preventing and tackling ill health;
- Implement training modules that improve and develop professional standards
- Have a robust, clear and efficient licensing system

How will we do this:

- Work in partnership with Public Health and the NHS to tackle issues around licensing and ill health;
- Provide a taxi licensing system that aims to meet the needs of children and other vulnerable passengers;
- Ensure regular checks are made to ensure drivers are compliant, medically fit and in good health;
- Develop professional and high quality trained licensed drivers;
- Vibrant town – help to provide good public transport for all;
- Deliver an efficient and safe taxi licensing system that provides an efficient mode of transport for all;
- Assist in improving community safety by reducing antisocial behaviour;
- Encourage the uptake of vehicles with cleaner emissions;

Kirklees Safeguarding Policies (Adults and Children)

The licensing authority considers the Kirklees Safeguarding Children Board to be the primary recognised body competent to give advice on the protection of children and the Kirklees Safeguarding Adult's Board to give advice on protection of vulnerable adults. For the purposes of this policy a child is someone under the age of 18 years and vulnerable adult is someone over the age of 18 with care and support needs.

The Kirklees Safeguarding Children and Adult Boards take a positive and supportive view of this role and where possible, are committed to working in partnership with the licensing authority. The licensing authority will also work in partnership with internal services. Public Health and Protection Board and other relevant partners to develop good guidance and share information to promote public safety and safeguarding vulnerable passengers.

Policy Date -

1.4 Changes to Policies, Procedures and other matters

Significant changes to this Policy, internal procedures or other matters will be reasonably consulted upon and communicated via the Council's website, social media pages and trade meetings.

However, where an issue(s) arises that affects the safety of the public, that is either not covered by this policy, or would be affected by this policy, the Council reserves the right to make immediate temporary changes to this policy and / or its associated appendices without consultation. Subsequently, where temporary change(s) require a permanent alteration the Council will consult on those permanent alterations.

1.5 Licensing Overview

The council recognises the importance of Hackney Carriage and Private Hire vehicles, drivers, proprietors and operators. They play an essential role in the provision of local transport for those who have difficulty getting about on public transport, those enjoying the night time economy, taking children to school etc, and are vital in helping to maintain a healthy local economy. They can often be the first point of contact for a visitor to the local area.

Whilst the general public do not always know the difference between a Hackney Carriage and a Private Hire vehicle, and often refer to both as taxis, there are significant distinctions in law, on how they are allowed to operate. However, both have equal importance.

Within the district in which a Hackney Carriage vehicle (and driver) are licensed, they are available for immediate hiring, they can be hailed (or flagged) in the street, can wait on a rank and be approached directly by a member of the public, and 'ply for hire' in public places. They are not required to be booked via an operator. They must display a fare card within the vehicle which shows the current maximum fares to be charged as set by the local authority. In law, these are allowed to be called 'taxis' or 'cabs' and are sometimes also referred to as Black or London Cabs.

Hackney carriages licensed by another local authority that operate within this district cannot ply for hire or wait on ranks. They may however be used for private hire purposes, i.e. make pre-booked journeys.

A Private Hire vehicle is not allowed to accept direct bookings from the public. They can only accept bookings from a licensed operator; they cannot operate independently, i.e. without a licensed operator. They cannot be hailed in the street or wait on ranks. If a private hire driver accepts a fare which has not been pre-booked through a licensed operator, they are committing an offence and potentially driving without valid insurance.

The fares charged by the private hire trade are not regulated by the authority but must be agreed with the operator at the time of booking. Although, for journeys that start and finish within the district, where a private hire vehicle has a taximeter fitted, the fare charged cannot be more than would be charged by the taximeter. They are not allowed to use the term 'taxi' or 'cab' but may be called 'minicabs'.

1.6 Powers and Duties

There is legislation which the Council must either have regard to and/or places a duty on the Council to carry out its licensing functions in respect of hackney carriage drivers and vehicles and private hire operators, drivers and vehicles.

In carrying out its licensing functions, the Council will comply with legal requirements including requirements of the following statutes:

- Anti-Social Behaviour, Crime and Policing Act 2014;
- Crime and Disorder Act 1998;
- Data Protection Act 2018;
- Equality Act 2010;
- General Data Protection Regulations 2016;
- Health Act 2006;
- Human Rights Act 1998
- Immigration Act 2016;
- Local Government (Miscellaneous Provisions) Act 1976;
- Road Traffic Act 1988;
- Rehabilitation of Offenders Act 1974;
- Town Police Clauses Act 1847 and 1889;
- Transport Act 1985, 1991 and 2000;

Immigration

The council has a statutory duty to ensure that applicants have the legal right to work in the UK prior to issuing a licence. The issuing or refusing of licences will be undertaken in accordance with the requirements of the Immigration Act 2016.

The council takes this responsibility seriously and has checks in place to ensure compliance with the Act and will liaise, where required, with relevant Home Office departments. If a licence has been issued incorrectly for whatever reason, the licence ceases to have effect if the person does not have the right to work in the UK. Any licence which has expired due to the person's immigration status must be returned to the council within 7 days.

A licence may be suspended or revoked or its renewal refused if, since the grant of the licence there has been a conviction of an immigration offence or a requirement to pay an immigration penalty.

Proprietors and operators also have an obligation to ensure that they only use persons who have the right to work in the UK. Failure to observe this obligation, or to provide due diligence checks, will be subject to enforcement action by the Licensing Service or by the appropriate Home Office department, which may result in a civil penalty or imprisonment.

Secretary of State Guidance

The council will give full regard to any guidance issued by the Secretary of State regarding the protection of children, and vulnerable individuals who are 18 or over, from harm. If any changes to any parts of this policy or related appendixes are required when the guidance is released, they will be amended at the earliest opportunity.

1.7 Consultation

Consultation on this policy took place between w/c 5th November 2018 and 18th January 2019, with the following groups / partners –

- All Licensed Private Hire Operators
- All Licensed Drivers
- Trade Representatives
- All Councillors
- Kirklees Safeguarding Children's Board
- Kirklees Safeguarding Adults Board
- West Yorkshire Police
- Public Health Board
- Kirklees Community Safety Board
- NHS North Kirklees
- Greater Huddersfield CCG

1.8 Information Sharing

The Council will share with other legal bodies, local authorities, regulatory agencies or enforcement bodies, information supplied by applicants, or acquired in the course of exercising licensing functions, where it is lawful to do so. In particular, personal information will only be disclosed in accordance with the General Data Protection Regulations 2016 and the Data Protection Act 2018. This may include requests from other legal bodies, local authorities or regulatory agencies where this is necessary for the detection or prevention of crime or required by law or in connection with legal proceedings. Where applicable, it will be under the relevant Information Sharing Protocol.

Where a document has been translated into English, it must be certified by the translation company. The translation company needs to confirm in writing on the translation:

- that it's a 'true and accurate translation of the original document'
- the date of the translation
- the full name and contact details of the translator or a representative of the translation company

1.9 Delegations

The licensing authority has established a Licensing & Safety Committee that consists of 15 Councillors. The Licensing committee has the authority amongst other licensing matters to discharge non-executive functions in respect of hackney carriage and private hire licensing and to help formulate and review licensing policies in this regard.

The Licensing and Safety Committee has further delegated its functions to a Regulatory Sub-Committee, usually consisting of three members that have been selected from the Licensing Committee and officers to carry out some of these functions

In addition, the Service Director of Economy and Infrastructure has been delegated to appoint and authorise the Group Leader and licensing officers to investigate and carry out statutory duties under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Some of these authorised powers include but are not limited to:

- Accepting applications
- Granting of licences
- Suspension of licences
- Revoking of licences
- Issuing warnings and cautions
- Investigation and preparation of prosecution files; and
- Investigating complaints/offences

There is a right of appeal against the licensing application and Licensing and Safety Committee decisions. Appeal applications must be made to West Yorkshire Magistrates' Court, sitting at Kirklees, within 21 days of the determination.

Matter to be dealt with	Licensing and Safety Committee	Officers
Full policy /Policy Objectives Review	X	
Fee setting	X	
Application for a hackney carriage and private hire driver's licence		X
Refusal of licence		X
Revocation of licence		X
Suspension of licence		X

Review of licence		X
Formal warnings		X
Investigations of offences and preparation of prosecution files		X
Complaints		X

Section 2 - General provisions for Hackney Carriage and Private Hire Drivers

2.1 Parallel Procedures

The statutory and practical criteria; and qualifications for private hire and hackney carriage driver's licences are similar. Therefore, the sections below, applies equally to hackney carriage and private hire drivers unless indicated.

2.2 Drivers general – Fit and Proper Person Requirement

The council will only licence drivers that it considers 'fit and proper', and where the applicant is not disqualified by reason of their immigration status.

The licensing authority has adopted the 'fit and proper' test as contained in the Local Government (Miscellaneous Provisions) Act 1976. Sections 51 and 59. This states that:

'a district council [the licensing authority] shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence'.

When deciding whether a person is 'fit and proper' the licensing authority will use the attached policy on determining the suitability of applicants and licensees in taxi and private hire. Appendix A

The burden of proof lies with the applicant proving they are fit and proper, and not the licensing authority proving they are not.

To help the Council judge whether a person is 'fit and proper' applicants and licence holders are required to undertake several checks and tests to establish their suitability to be considered 'fit and proper' to either be or remain licensed.

Applicants and existing licence holders are required to share information held about them by various bodies, such as DVLA, the police, medical information, right to work, immigration status, etc. The council will request any information it deems relevant to determine their fit and proper status. This may include checking a driver's prior history with this or any other local authority, using intelligence from the police or any other local authority service or regulatory authority as deemed appropriate and necessary.

2.3 Application for New Drivers Licence

Pre-Application

Before a person can apply for a drivers licence the following pre-application criteria must be met: -

Age

In order to be eligible to apply to be a licensed driver, an applicant must have held a valid full driving licence for a minimum of two years. Therefore the minimum age a person could be eligible to apply is 19 years old. There is no maximum age, so long as the applicant still meets the full criteria.

Driven Assessment

Before any application can be made, new applicants must have successfully completed the approved council driving test. Kirklees Council's approved training provider for the driven test is the Driver Training Unit; however, where the applicant has passed the previous DSA test or the equivalent test with another West Yorkshire Authority (including York), the Council will accept the certificate providing it was completed within the previous 12 months from the date the application is accepted.

Applicants for a Hackney Carriage licence will be required to undertake the disability access section of the driving assessment test.

The tests will be conducted using the applicant's vehicle which must be roadworthy. The assessor will not carry out the test if the vehicle appears un-roadworthy and the fee may be lost.

The fee for this training must be paid direct to the provider.

Applicants can only attempt the driven test on 3 separate occasions, after which a period of 6 months must elapse before a further test can be taken.

Applicants must make a full application within 12 months of passing the test. Those applicants that fail to do so will be required to undertake and pass the test again.

Medical

It is essential that licensed drivers are in good health as they are expected to carry passengers' luggage, will drive on the road for longer periods than most car drivers, and may need to assist disabled passengers. The council must be satisfied that the drivers it licenses are sufficiently fit to undertake the tasks expected of them.

Being a licensed driver is a demanding role, safe driving requires the involvement of vision, hearing, attention, concentration, perception, good reaction time, judgement, coordination, muscle power and control etc.

Due to the length of time an occupational driver (hackney carriage and private hire) spends at the wheel, it is appropriate to have more stringent medical checks and standards than those applicable to non-professional drivers.

As such the Council have adopted the DVLA group 2 medical. This is in line with the DVLA, The Royal Society of Medicine and Department for Transport's recommendations and is considered best practice for licensed drivers. The DVLA group 2 medical is a recognised national standard developed by DVLA for bus and lorry drivers.

The medical must be completed by the applicant's own family doctor. If it is not possible to obtain a medical from their own doctor the Council may accept a medical completed by another doctor, providing that doctor has had sight of the applicant's full medical record and provides a declaration to say they have examined the applicants full medical record.

Upon reaching the age of 45 a Group 2 Medical report will be required every 5 years until the age of 65. From the age of 65, each renewal must be accompanied by a group 2 medical.

The Council have adopted the DVLA Group 2 Medical Examination Form and will only accept this form as proof of a medical. A link to this form can be found on the licensing webpage.

Knowledge Test

The Council believes that, due to the nature of the role and the high demands and pressures that are brought with it, all applicants should undertake a rigorous training programme.

In addition, the very nature of a private hire and hackney carriage driver is to transport passengers from one place to another, and to this end all applicants must have a sound knowledge of the Kirklees District.

Given the rural nature of the district where satellite signals / mobile data signals might be intermittent, it is imperative applicants do not have to rely on electronic devices and other forms of navigation equipment to be able to travel from place to place; they should have a sound knowledge of all major points of interest within the Kirklees District.

To support this members of the West Yorkshire Combined Authority (including York) have developed a West Yorkshire Combined Authority Driver training programme that all applicants for a licence must undertake before a licence is granted.

In Kirklees, this training programme must be completed by an approved training centre, before an application for a licence can be submitted; details of approved training centres can be found at Appendix C.

The aim of the training is to:-

- help provide a high level of professional service to customers;
- ensure passengers feel safe whilst travelling with a licensed driver;
- assist licence holders in working in a professional way;
- ensure there is an understanding of the basic legislation underpinning taxi and private hire work;
- ensure there is an understanding of the risks associated with working as a driver and help licence holders take reasonable steps to reduce those risks;
- ensure there is a basic knowledge of the geography of Kirklees district and the various town centres;

- ensure that licence holders can use a basic reference tool (GPS, A-Z);
- ensure a licence holder understand the conditions attached to holding a private hire driver's licence and the conditions attached to holding a private hire vehicle licence;

New Driver Application Appointment

Upon completion of the pre-application criteria, an applicant will be entitled to make an appointment for new driver application. At the appointment, applicants must provide the following original documents, failure to do so will result in their application being refused –

- Completed application form;
- Valid driven test certificate;
- Valid medical;
- Valid knowledge test certificate;
- Valid documents to prove immigration / right to work status – Any of the following documents are acceptable:-
 - British Passport;
 - Passport from a European EEC Member;
 - Biometric Residency Permit;
 - Immigration / right to work permit in a foreign **in-date** passport;
- All of the following documents to enable a DBS check to be completed
 - Valid passport;
 - DVLA drivers licence;
 - 1 Utility Bill – electricity, gas, water, landline telephone bill, council tax or bank statement within the last 3-months;
- Statutory driving licence;

At the new driver appointment, a check of the DVLA database will be made for any motoring convictions / penalty points recorded against the applicant. If any motoring convictions / penalty points are recorded the application will be put on hold, and the matter will be considered in line with the Council's fitness and suitability / convictions policy which can be found at Appendix A.

At the new driver appointment, the Council will conduct a criminal record check with the Disclosure and Barring Service. The results of this check will be posted to the applicant; and upon receipt of the completed check an applicant must make an appointment to produce the certificate to the Council. Any information recorded on the certificate will place an application on hold while the matter is considered in line with the Council's fitness and suitability policy a copy of which can be found at Appendix A.

During the course of an application, information may come to light, that is not recorded on an applicant's DBS and / or DVLA record that may affect the suitability of a person to hold a licence. Any such information, will be considered in in line with the Council's fitness and suitability policy a copy of which can be found at Appendix A

If information is recorded on an applicant's driving licence and criminal records certificate, both matters will be considered at the same time as whole.

2.4 Renewal of a Drivers Licence

The Council do not issue renewal letters and it is the responsibility of the individual licence holders to ensure they apply for the renewal of their licence before their existing licence expires. If a licensed driver fails to renew before the expiry of their existing licence, they will be required to apply as a new driver and meet all the requirements of such an application.

A licence holder can start the process of renewing their licence up to three-months before the expiry of their existing licence. To start the process an appointment needs to be made and the licence holder must attend the appointment with all relevant supporting original documentation.

At the renewal appointment the following documents must be produced:-

- Completed application form
- Statutory driving licence

If, as part of the renewal, a new DBS certificate is required then the follow documents must be produced:-

- Valid passport
- DVLA drivers licence
- 1 Utility Bill – electricity, gas, water, landline telephone bill, council tax or bank statement within the last 3-months

If, as part of the renewal, a new 'medical' is required this must be produced at the renewal appointment.

If as part of the renewal process, a new DBS certificate and / or medical is required please contact Kirklees Direct who will be able to provide further advice.

If a new DBS is required, the application to renew the licence must be made in sufficient time for the DBS to be returned before the licence expires. A Licence can be renewed up-to three-months in advance, we advise that application is made as close to the beginning of those three-months as possible.

2.5 Convictions, Cautions and Related Matters

In considering if an applicant is fit and proper, the council will take into consideration any prior convictions, cautions and other relevant information as set out in the Fitness and Suitability of applicants and Licensees as set out in the policy at Appendix A.

Therefore, all applicants for new licences and renewals are required to undertake and submit an Enhanced DBS check. This check will detail criminal convictions and cautions including those that are spent, and other relevant matters which may be held by the police about them. It does not prove an applicant's right to work.

It is important the council remains updated about relevant convictions after any licence has been granted. Therefore as per guidelines set out by the Local Government Association, all drivers must register for the DBS Update Service to allow the Council to receive updates. If not already registered for the service, an applicant will only be

able to do so when the DBS certificate has been issued. This will then enable the council to use the DBS Update Service, Multiple Status Check Facility.

Due to the type of work performed by licensed drivers, they do not fall under the Rehabilitation of Offenders Act 1974. This means that what would be considered as spent, under the Rehabilitation of Offenders Act, is still taken into consideration when determining applications for licensed drivers.

Where convictions, cautions, reprimands or warnings appear on a DBS certificate, it is not the place of the council to go behind the existence or reason of that conviction. Whilst mitigating circumstances may have applied at the time of the conviction, the council cannot re-try the conviction. Depending on the offence committed, applicants may be able to demonstrate it was a 'one off'; they acted out of character, so are unlikely to be repeated. Each application will be determined on its own merits.

The existence of a criminal conviction, caution, reprimand or warning does not necessarily preclude an applicant from obtaining or retaining a driver's licence. Conversely, the absence of any convictions or cautions does not mean that an applicant will be licensed. Each application will be determined on its own merits.

Further information is contained in the guidelines relating to the relevance of convictions, cautions, reprimands or warnings in relation to taxi licensing attached at Appendix A.

Licensed drivers must notify the licensing department of any cautions, convictions, immigration offences, or other relevant matters, including road traffic offences such as speeding, or being placed on police bail pending enquiries, which occur during the application or renewal process or after the licence has been issued.

If it comes to the attention of the council that a licensed driver has failed to notify the council of relevant matters which occur during the application or renewal process or after the licence has been issued, it will be taken particularly seriously. It shows a propensity towards dishonesty and questions the fit and proper status of the licence holder.

Common Law Police Disclosure

Under Common Law Police Disclosure (CLPD) the police can share information regarding a licensed driver even before a conviction if there is a "Pressing social need". This ensures that where there is a public protection risk, the police will pass information onto a regulatory body to allow immediate action to mitigate any serious safeguarding risk.

Any information released under the CLPD will be considered in line with the Councils fitness and suitability policy, a copy of which can be found at Appendix A

Residency

Applicants who have not resided continuously in the UK for five years will be required to submit a Statement / Certificate of Good Conduct, authenticated by the relevant embassy of the country of residence, in addition to the Enhanced DBS certificate. This must be translated into English at the applicant's expense. The Statement / Certificate of Good Conduct, must be no more than 3 months old at the time of submission.

DVLA Checks

Given the main function of a licensed driver is driving, the council needs to be satisfied an applicant for a new licence and the renewal of a licence, holds a valid driving licence and whether any relevant penalty points are recorded on their statutory driving licence.

Checking an applicant's driving record is an essential in assessing a person's fitness and propriety and is seen as a vital measure that the council will carry out for all applicants.

All driver licence checks will be carried out with the Driver Vehicle Licence Agency and will reveal information on: -

- The licence validity dates
- The categories of vehicle the driver can drive
- If there are any endorsements on the licence; and
- If the driver is disqualified

Consideration of penalty points and driving offences will be made in accordance with the guidelines relating to the relevance of convictions / cautions in relation to taxi licensing which can be found at Appendix A.

2.6 Carrying of Assistance Dogs

Carrying of Assistance Dogs

Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and

Not to make any additional charge for doing so. It is best practice to ask the passenger where they want themselves and their dog to sit in the vehicle.

Medical Exemption Certificates

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.

The Licencing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request; with the cost of this certificate being borne by the driver being granted the exemption.
- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

The licensing authority fully supports the legislation as set out in the Equality Act 2010 and has put in robust measures to ensure that all licensees fulfil this requirement. The licensing authority will investigate complaints of drivers refusing to pick up passengers with assistance dogs and if no exemption certificate is held the authority will refer the case to Legal Services for prosecution provided there is enough evidence to provide a realistic prospect of conviction and it is in the public interest to do so.

2.7 Conditions

The Council is permitted to impose such conditions, as it considers reasonably necessary, on private hire drivers. Appendix B sets out the conditions attached to drivers' licences.

The conditions at Appendix B do not form part of the policy document, although they may be referred to within it. These conditions could be subject to change during the duration of this policy, but such amendments may not result in a review of this policy.

The Council, in its absolute discretion, may vary the standard licence conditions for any driver if it is deemed necessary to do so.

2.8 Refresher Training

The Council wants to ensure that all drivers remain up to date with current industry legislation and practice. Currently licensed drivers will be required to attend every three years an awareness session. No test will be required and details can be found in the Driver Training policy attached at Appendix C.

2.9 Significant Changes

All licensed drivers are under a duty to notify the council of any significant changes which may affect their licence; such as:

- a) Change of name, address, email address or telephone number. Email address is strongly encouraged;
- b) Change of immigration status;
- c) Changes in their health which may affect their driving ability;
- d) All convictions, cautions, reprimands, warnings and DVLA penalty points;

- e) Any other matter which may bring in to question their fit and proper status;

2.10 Drivers Badges

All licensed drivers are required to prominently display their driver's badge whilst working as a licensed driver unless an exemption is granted by the Licensing Authority. Failure to comply is an offence under the 1976 Act and local byelaws. Drivers are reminded that the driver's badge remains the property of Kirklees Council; all expired and surrendered badges must be returned to the council.

The Council issues Dual Drivers licences meaning it is possible to drive either a licensed private hire or licensed hackney carriage vehicle; however, those vehicles must be licensed by Kirklees Council.

2.11 Duration of Licences

From October 2015 Driver's licences are to be granted for a period of up-to 3 years. There may be circumstances where a licence cannot be issued for 3 years this may include:

- The applicant is due to retire or cease being a licensed driver;
- The driver is being given a trial following a hearing/assessment of their fitness to hold a licence;
- In the case of a situation where the licence is not in sync with the DBS certificate a licence may be granted until the end of the 3-year term of the current DBS certificate.

Other cases may arise from time to time such that the Group Leader for Licensing deems it appropriate to issue a licence for a period of less than 3 years.

2.12 Applications taking longer than 6 months

Where a 'new' application is submitted for a dual driver's licence and that licence is not granted within 6 months from the date of the DBS certificate, then a new DBS certificate and medical will have to be applied for and returned before a licence can be granted.

2.13 Code of Conduct when working with vulnerable passengers

It is essential that young, elderly and other vulnerable people are safeguarded and protected whilst being transported in a licensed vehicle. Accordingly a specific Code of Conduct must be complied with when working with vulnerable passengers. This is provided at Appendix K. It is a condition of the licence that drivers adhere to this policy.

Section 3 - General provisions for hackney carriages and private hire vehicles

3.1 Application for licence

To obtain a vehicle licence a vehicle proprietor must first source a vehicle that meets the Council current specification and age limit, see Appendix D for further information.

If satisfied the vehicle meets the Councils current criteria then:-

- Call the Councils MOT Stations on 01484 221000 – ask for Transport – when prompted, select the option to book ‘taxi test’.
- If booking an appointment for the renewal of a licence, it will be the vehicle proprietor’s responsibility to ensure that the garage test date is not earlier than 4 weeks of the vehicle licence expiry date.

Please note, the age limits below are based on existing policy. The Council is consulting on removing the minimum age requirement and introducing a policy for new vehicles based on emission standards, as such, this section may be subject to change.

- It will be the vehicle proprietor’s responsibility to ensure that the vehicle is not over 10 years old if it is an already licensed vehicle (not over 12 years old if they are wheelchair accessible), and, not over 6 years old if it is a new vehicle.
- The garage test fee of £48 is directly payable to the garage on the test day. These fees are strictly non-refundable.
- To make the licensing appointment call Kirklees Direct on 01484 456868 – when prompted, select option 1 to make the licensing appointment. This appointment date has to be after the garage test date.
- A HPI check will also be undertaken at this appointment if it is a new vehicle. The following documents will be required at this appointment:
 - Completed application form
 - Appropriate fees (Card payment only)
 - Test pass sheet from the garage
 - Valid insurance
 - Log book / Proof of purchase
 - Letter from the Operator (for new vehicles/vehicle change)

In addition, any new vehicles that are a Category S insurance write off, will require an Autolign certificate before a licence can be issued. Any modified vehicles, for example a goods vehicle converted into a passenger vehicle, will require an IVA certificate or equivalent before a licence can be issued.

3.2 Exemptions from Control

The 1976 Act exempts the following vehicles from control under the Act: -

- a) vehicles while being used in conjunction with a funeral or used wholly or mainly for the purpose of funerals by a funeral director;
- b) vehicles while being used in connection with a wedding;

3.3 Vehicle Criteria

Specification

Local licensing authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriage or private hire vehicles.

The Council have differing vehicle specifications for hackney carriage vehicles, private hire vehicles, stretched limousines and highly adapted vehicles. Full details of the Council's approved specification can be found at Appendix D.

Applicants for vehicle licences should pay particular attention to the following aspects of the approved vehicle specification.

- Type Approval

Before a vehicle can be licensed it shall have an appropriate "type approval" which is either a European Community Whole Vehicle Type Approval (ECWVTA) or UK Low Volume Type Approval (UKLVTA). Vehicles shall not have been altered since that approval was granted.

Any vehicle that has been type approved as N1, but has been subject to modification, must undergo and pass an IVA before a licence can be granted.

- Vehicle Age Limits

Please note, the age limits below are based on existing policy. The Council is consulting on removing the minimum age requirement and introducing a policy for new vehicles based on emission standards, as such, this section may be subject to change.

The Authority operates an age policy in relation to the age at first licensing and the age at which a vehicle will no longer be licensed.

The current policy for the Council in relation to vehicle age is as follows:

- 1) Applications for Hackney Carriage/Private Hire vehicles to be considered for first licensing up to 6 years of age
- 2) Hackney Carriage/Private Hire vehicles over 10 years of age will be refused further licences.

3) That the only exemption to the maximum age limit of 10 years will be applied to London cab type vehicles, the maximum age for such vehicle will be 15 years. Any other wheelchair accessible vehicles used for Hackney Carriage purposes to be licensed to a maximum of 12 years.

- Emissions

The Council are looking to encourage the use of low emission vehicles, including electric vehicles. In order to support this the Council are working with West Yorkshire Combined Authority to install a network of electric charging points for electric vehicle to utilise

In addition, the Council are consulting on the following proposed Emissions policy for the private hire and hackney carriage trades:-

All new vehicles will need to meet the following emissions criteria:-

- Petro Engines – Must meet Euro 5 Standards
- Diesel Engines – Must meet Euro 6 Standards

- Tinted Windows

All windows fitted to Kirklees Private Hire Vehicles must comply with the minimum legal requirements; to transmit 75% of light to the front windscreen and 21% light to all other vehicle windows. Further, all vehicles must meet required standards at annual testing. No tinted film is accepted on current licensed vehicles or new applications.

3.4 Limitations on Numbers

No powers exist for licensing authorities to limit the number of private hire vehicles they licence.

In relation to hackney carriage vehicles, the current legal provision on quantity restrictions is set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriage 'if, but only if, the local authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.'

The Council is satisfied that there is no significant unmet demand for the services of hackney carriages; therefore, the Council shall limit the number of hackney carriages it licences to 250. The Council will determine whether there is any significant unmet demand at regular intervals. An independent survey was last undertaken in 2017.

3.5 Vehicle Testing

All licensed vehicles are tested at the Councils testing station. Tests are conducted at the time of being licensed and upon renewal.

48 hours notification of a cancellation must be given, failure to do so may result in a further payment for a test being charged.

Where the Council is not satisfied with the roadworthiness of a vehicle it may request an HPI check or require the vehicle to undergo an independent inspection and an 'Autolign' report produced at the cost of the applicant. This is to provide information and guidance relating to the proposed licensing of the vehicle.

Where a vehicle fails its test and the vehicle tester is not satisfied as to the roadworthiness of the vehicle, the vehicle may be suspended by an Authorised officer of the Council.

3.6 Insurance Write Offs

On the 1st October 2017 the system insurance companies use to classify vehicle write offs changed. As a result of these changes the following table details how the Council, in its capacity as licensing authority, will deal with vehicles that have been written off by an insurance company.

Categories (from 1.10.2017)	Action
A - Scrap only	the Council will not licence, or re-licence, a vehicle that has been written off as 'Category A'.
B - Break for parts	the Council will not licence, or re-licence, a vehicle that has been written off as 'Category B'.
S - Structurally damaged but repairable	the Council will consider licensing, or re-licensing, a vehicle that has been written off as 'Category S'. However, a vehicle will only be considered for a licence if it has passed an 'Autolign' inspection, and a satisfactory report / certificate produced.
N - Not structurally damaged, repairable	the Council will consider licensing, or re-licensing, a vehicle that has been written off as 'Category N'.

3.7 Accidents

In accordance with section 50 (3) of the 1976 Act, the proprietor of a hackney carriage or a private hire vehicle shall report to the Authority as soon as reasonably practicable and in any case within seventy-two hours any accident causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers.

Following the reporting of an accident an Authorised officer will examine the vehicle to ascertain its fitness to be a licensed vehicle.

Where the officer is not satisfied as to the fitness of the vehicle the officer may suspend it from use under s68 of the Local Government (Miscellaneous Provisions) Act 1976. In order to ascertain its fitness, the authorised officer may require the vehicle to be examined, by a vehicle tester, at the Council testing stations.

Where a vehicle is suspended the identification, plates must be removed and returned to the Council within 7 days.

If an officer is not satisfied as to the fitness of the vehicle before the expiration of a period of two months from this suspension, the vehicle licence shall be deemed to have been revoked and a new licence would have to be applied for if wanting to re-licence the vehicle.

3.8 Signage and Advertising

It is important that the public are be able to identify and understand the difference between a hackney carriage and private hire vehicle.

Style of Plates and window discs

Vehicle identification plates are a key feature in helping to identify vehicles that are properly licensed, the licence plate shall be permanently fixed and displayed on, or in the near vicinity of the rear bumper of the vehicle, so as to be clearly visible on the rear of the vehicle at all times.

The vehicle licence disc shall be fixed and displayed to the inside of the front windscreen on the kerb side in such a manner as to be clearly visible to any passenger, Constable or duly Authorised Officer, but not so as to obstruct or impair adequate forward vision of the driver of vehicle. The licence disc holder shall be fixed to the front near side windscreen, to be clearly visible to all passengers.

The style of plates may change from time to time. The Authority will keep up to date with new developments and current Health & Safety best practice, image, value for money and recognition will always be a high priority.

Plates and window discs and badges must be displayed at all times.

The Council has specified that the vehicle licence number, make, model and licence expiry date, together with the number of passengers it is licensed to carry shall be placed on the vehicle identification plate. This identification plate must not be tampered with, or amended by, anyone other than an authorised officer.

Door Signs – Private Hire

A Kirklees licensed private hire vehicle must display an adhesive sign on the top panel on each of the two front doors of the vehicle only, and on no other part of the vehicle, glass or panels. Such door signs are to be permanently stuck on to the door panel at all times the vehicle is licensed as a private hire vehicle. Magnetic signs are not permitted. Corporate door signs are now produced by the Council Licensing office.

Corporate door signs are subject to the Council's prior approval of the design, colour and wording of the sign. All new Private Hire Vehicle applications and annual renewals

if not already purchased from Kirklees Council must display the new corporate door signs manufactured by the Council.

Failure to comply with this condition will entail the immediate suspension of the vehicle licence, and seizure of the magnetic or defaced items for destruction.

The door sign will contain only the Company name/logo and telephone number, the top section of the sign must contain the wording “**ADVANCED BOOKINGS ONLY**” with a minimum letter height of 35mm. Any colour of the sign/wording will be considered with the exception of blue. All signs must be approved by the Council before fitting to licensed vehicles. The Council Licensing Service now has facilities to produce corporate door signs on request.

Door Signs – Hackney carriage Vehicles

The Kirklees Council door signs issued by the licensing service must be displayed on the top panel of the licensed vehicle’s two front doors.

The door signs must be permanently fixed to both front doors of the vehicle in the approved manner. The signs must not be fixed magnetically to the vehicle, nor disfigured or reduced from the official size.

Failure to comply with this condition will entail the immediate suspension of the vehicle licence, and seizure of the magnetic or defaced items for destruction.

An advertisement/company logo of a design and size which has the prior approval of the Council may be displayed below the Kirklees official door sign only on the two front doors and not on any other panel of the licensed vehicle.

Roof Signs

The Proprietor/Driver of a hackney carriage vehicle shall cause to be fixed and displayed on the roof of the vehicle a taxi roof sign (minimum size 30 inches long) authorised by the Council at all times the vehicle is being used for hackney carriage purposes, with the exception of the London Cab.

Private hire vehicles shall not be permitted to display roof-mounted signs and any signs that include the words ‘taxi’ or ‘cab’ or ‘for hire’

Advertisements

The Council, by way of conditions, restricts the advertising that that can be placed on any licensed vehicle; and a vehicle proprietor shall not display or suffer or permit to be displayed on or from the vehicle any advertisement, any other sign including religious or nationalists symbols, notice or device or livery except as may be agreed from time to time by the Council or which is prescribed by or under any enactment. The Council’s full policy in relation to advertisements can be found at Appendix E.

3.9 Byelaws

The Council has made Byelaws under the 1847 Act which apply to hackney carriages; a copy of those bylaws can be found at Appendix F.

3.10 Duration of Licences

Vehicles will be licensed for a period of 12 months. Renewal of the licence will be subject to the vehicle undertaking and passing a further test at the appointed test station.

3.11 Ownership of Multiple Vehicles

There is no limit on the number of vehicle licences an individual can hold.

3.12 Security Cameras / Audio Recording Equipment

Security cameras are permissible in vehicles subject to certain safeguards. In addition, there are limited circumstances in which audio recording may be justified, for example, where recording is triggered due to a specific threat, e.g. a 'panic button' in a taxi cab.

No vehicle equipped with a security camera, and / or audio recording facilities, shall be used unless the existence of the camera and / or audio recording is clearly indicated by a notice displayed.

The Council recognises the sensitive nature of security surveillance in general but also recognises the legitimate concerns of licensed drivers. Equipment should be available to be inspected and images downloadable on request of an Authorised Officer of the Council or Constable.

3.13 Smoking

It is an offence to smoke or allow another person to smoke in a licensed vehicle at any time when it is a licensed vehicle. This applies even if not working.

The use of e-cigarettes and / or vaping in a licensed vehicle by the driver and / or passenger(s) is not permitted.

3.14 Transfer of Owner

Should a vehicle be sold to a new owner the existing licence holder must notify the Authority within 14 days. Failure to do so renders the licence holder liable for prosecution.

Both parties to the transfer of a vehicle must be in attendance at the appointment for the transfer to go ahead.

3.15 Cherished Number Plates

The Council currently allow private hire and hackney carriage vehicle to be fitted with cherished number plates (private registration plates). The following documents must be produced before a vehicle can be licensed with a cherished number plate:-

- Written evidence from the Driver and Vehicle licensing Agency (DVLA) that the vehicle has been granted permission to change its original registration to the cherished number plate.
- Relevant vehicle insurance covering the cherished number plate.
- The vehicles V5 (log book) showing the changes to the new cherished number plate.

If you do not attend your appointment with all the above documents your appointment will not proceed, resulting in the application being delayed.

3.16 Temporary Lease Vehicles

The Council's understand that vehicle hire companies may need to licence vehicles on a temporary basis to replace licensed vehicles that have been damaged in an accident. The Council understands that vehicle hire companies have different requirements when it comes to applying to licence such vehicles, and have therefore developed a separate process to assist hire companies. The current process can be found at Appendix I.

Vehicle hire companies, need to be aware that whilst the vehicle is licensed by Kirklees Council, it **must** comply with the Council's vehicle conditions, this include the display of mandatory doors signs and vehicle licence plates.

3.17 Executive Vehicles

The Council appreciates that some business people, and / or high profile members of the public may wish to use a; high specification, 'executive' vehicle for the purposes of travel. Whilst the Council do not currently set the type of vehicle that may be classed as executive, it reasonable to expect the specification of the vehicle wishing to be classed as executive, to be substantially above the specification of a normal vehicle.

There is no automatic right for a vehicle, deemed to be executive, to be exempt from displaying mandatory doors signs and/ or a vehicle identification plate, neither does it automatically exempt a vehicle from the Councils current policy on tinted windows or any other condition / policy requirement. In order for a vehicle to be exempt from specific conditions / policy restrictions the following must be provided:-

- The request for executive status must come from the operator the vehicle will be working from. That request needs to be in writing, stating the reasons why the operator requires a particular vehicle to be granted executive status.
- The request from the operator needs to be accompanied by, written evidence of the contacts that particular vehicle will be used to fulfil, if 'executive status' is granted.
- The request from the operator must detail which specific conditions / area of policy they wish the Council to deviate from and the reasons why.

- The written contracts need to be accompanied by a letter from the companies, with whom the contract(s) are with, stating why the company needs an 'executive' style vehicle. The company will need to specify which specific conditions / areas of policy they wish the Council to deviate from and the reasons why. This letter will need to come on the relevant company letter headed paper, with contact details of a person at the company with whom officers can verify its contents.

Where executive status is granted to a vehicle, that status only applies whilst the vehicle is carrying out work for the private hire company that submitted the request. If the vehicle moves to a different company the executive status lapses and the vehicle will need to comply with all the Council's vehicle conditions / policies.

If executive status is granted to a vehicle, the vehicle licence will have conditions attached that state the vehicle can only be used for the contract(s) under which executive status was granted. This would limit the vehicle to being used only for that contract(s) and not normal private hire / hackney carriage work.

3.18 Conditions

The Council is permitted to impose such conditions, as it considers reasonably necessary, on hackney carriage and private hire vehicle licences. Appendix G sets out the conditions attached to private hire vehicle licences and Appendix F sets out the conditions attached to hackney carriage vehicle licences.

The conditions at Appendix F and Appendix G do not form part of the policy document, although they may be referred to within it. These conditions could be subject to change during the duration of this policy, but such amendments may not result in a review of this policy.

3.19 LPG and Electric Vehicles

The Council welcomes the use of environmentally friendly vehicles. The testing arrangements for both LPG and Electric vehicles are the same as for a normal petrol / diesel vehicle.

Section 4 – General Provisions Relating to Private Hire Operators

4.1 General

Operators of private hire vehicles are required to be licensed under the 1976 Act. No person may operate a vehicle as a private hire vehicle if the vehicle or the driver is unlicensed.

“Operate” means, in the course of business, to make provision for the invitation or acceptance of bookings for a private hire vehicle.

4.2 Application Process

Every applicant for an Operator licence shall be required to: -

- Complete the appropriate application form;
- Complete a DBS Disclosure form (unless already a Kirklees licensed driver);
- Attend a Private Hire Operator training and appropriate assessment;

The Council will only issue licences to applicants that are deemed to be fit and proper. In assessing this, the Council will have regard to the following:

- Criminal record (including convictions, cautions, warnings, fixed penalties and reprimands);
- Issue of any Magistrate’s Court summons against them;
- Any harassment or other form of warning or court order within the civil or criminal law including Anti-Social Behaviour Orders or similar;
- Factors such as demeanour, general character, non-criminal behaviour, honesty and integrity;
- Previous conduct or complaints (particularly in cases where the applicant holds or has previously held a licence issued by Kirklees Council);
- Business practices demonstrated by the applicant (for example standard of record keeping, compliance with other regulatory requirements, financial practices etc.);
- Their arrest for any offence (whether or not charged);

The assessment of a person’s ability to hold a private hire operator’s licence will be made in accordance with the Council’s statement of fitness and suitability at Appendix A.

Business Partnerships

Where the applicant is made by a business partnership, the applicant shall provide, in addition to the information specified above, the name, date of birth and address of any person who proposes to operate the business in partnership with any other person(s) and undertake the same ‘fit and proper person’ assessment and training and testing requirements as detailed above. The assessment of any person involved

in the business partnership will be made in accordance with the Council's statement of fitness and suitability at Appendix A.

Each Operator licence issued by the Licensing Authority shall be issued only in the name of the applicant, and that person shall be deemed solely responsible as the Operator upon the licence being granted and the licence is not transferable from the first mentioned person to another person.

4.3 Convictions

An Operator, and / or any business partner shall, within seven days, disclose to the Council in writing details of any convictions imposed on him (or any business partners, directors or company secretary) during the period of the Licence or if he is arrested, cautioned or being investigated for any offence whether charged or not.

4.4 Change of details

An Operator shall, within seven days, notify the Council of any change in his or his business partner's address taking place during the period of the Licence.

4.5 Conditions

The Council is permitted to impose such conditions, as it considers reasonably necessary, on private hire operator's Appendix H sets out the conditions attached to private hire operator licences.

The conditions at Appendix H do not form part of the policy document, although they may be referred to within it. These conditions could be subject to change during the duration of this policy, but such amendments may not result in a review of this policy.

4.6 Duration of Licence

Operator licences are granted for 5 years, unless circumstances dictate it should be granted for a lesser period.

4.7 Insurance

A private hire operator may be required to obtain 'public liability' insurance and / or 'employee' liability insurance. Operators should seek advice from the Authority as to whether such insurance is required.

4.8 Criminal Records Check

Where an applicant for a private hire operator's licence is not a licensed driver with Kirklees Council then a basic disclosure check will be required before a licence can be issued.

4.9 CSE and Licensing Training

Private hire Operators and the base staff they employ play a vital role in the prevention of Child Sexual Exploitation. Operators, via their booking system can, for example, easily spot repeat journeys from a children's home to a repeat destination.

In addition, operators and base staff need to know the law relating to the private hire / hackney carriage trades. As such, where the operator is not an existing licensed driver, they will need to undertake the following modules of the driver training course, all base staff will also need to complete the same modules:-

- Regulatory Framework;
- Adult safeguarding;
- Children safeguarding;
- Vulnerable passengers;
- Inclusion and Diversity / Disabilities Training;

4.10 Advertising

No Operator may use the word TAXI or CAB or HACKNEY CARRIAGE or any combination or derivation thereof in any advertising manner on the vehicles they operate, and any such advertising shall include the words Licensed Private Hire.

Any other type of advertising on vehicles must be in accordance with the Councils "Advertising on Vehicles" Policy. Appendix E, sets out the Council's current policy in relation to advertising on licensed vehicles.

4.11 Record of Bookings

An Operator shall keep records in the form prescribed by the Council containing particulars of booking and of private hire vehicles operated by them. Separate records must be kept at each premise from which the Operator carries on business. The records shall be produced immediately by the Operator or their employee on request to any Authorised officer of the council or to any constable for inspection. The records shall be kept for at least three years on the premises. The council prescribe the following:-

- An Operator shall keep a true and accurate record of every booking of a Private Hire vehicle invited or accepted by him. The record shall be kept on computer or in a suitable book with consecutively numbered pages. Before each journey commences the Operator shall enter therein:-
 - i. The place at which the booking was received and the date and time thereof
 - ii. The name of the hirer

- iii. Whether the booking was made by telephone, personal call or other means (to be stated)
- iv. The address or other place from which it is to commence, the address or place of destination and the requested time, if any, for the journey to commence
- v. The plate number of the vehicle to be used for the journey
- vi. The name of the driver undertaking the hiring

If a computer is used it must be connected to a printer at all times in order that records can be printed on demand of an authorised officer of the Council, a police constable, or a police community support officer. The records must not be able to be retrospectively altered in any way.

4.12 Vehicle and Driver Records

An Operator shall keep a record of each private hire vehicle operated by him, such records must contain details of: -

- The name and address of the proprietor to whom the vehicle licence has been issued
- The licence number of such vehicle licence
- The date of expiry of such vehicle licence
- The number of persons for whom the vehicle is licensed

The Operator must have in place a system of ensuring no driver works when their driving licence, insurance or vehicle licence have expired or been suspended or revoked or their vehicle has no valid compliance test in place. That system must be available for inspection at all times by an authorised officer of the Council, a police officer and / or a police community support officer

4.13 Complaints System

Private Hire Operators must maintain a register of complaints by the public in a format approved by the Council (computerised or hard copy). The format of the complaints register must be maintained in the manner prescribed by the Council.

Upon receiving any 'specified complaint' or allegation regarding any person licensed by the Authority Operators must report it immediately when the licensing office is open, and in any other event within 72 hours.

The specified complaints or allegations are:

- of sexual misconduct, sexual harassment or inappropriate sexual attention
- racist behaviour
- violence
- dishonesty
- breaches of equality

- drink driving (including drivers smelling of alcohol)
- drug driving

In straight forward terms, allegations of criminal behaviour whilst acting as a Private Hire driver. ‘Low level’ complaints can build up a business profile that can be indicative of a professional development need, or in the worst case the concealing of some potential significant offending or allegations of unsafe behaviour.

These concerns are to be dealt with by a requirement to maintain a ‘register of complaints’ and outcomes, for inspection by the Authority for a set period, of 12 months.

4.14 Use of Operator Name Following Expiry or Revocation of Licence

Where an Operator licence expires or is revoked, the name (or a similar name) of the Private Hire company associated with that licence cannot be used by another Operator or person until such time as six months has elapsed since the date of expiry or revocation or in the case of revocation the date on which all appeal processes have been concluded (whichever is the longer).

4.15 Out of Town Hackney Carriages Acting as Private Hire Vehicles in the Kirklees District

Schedule of Drivers

The Private Hire Operator, shall in writing, notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage driver employed or used for Private Hire bookings this will include Hackney Carriage drivers licensed by this or other Authorities.

Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage driver, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.

The Private Hire Operator shall retain a copy of the Hackney Carriage driver licence granted by this or any other authority along with a copy of the driver’s DVLA licence, and any other driver of that vehicle, and forward a copy of those documents to the Licensing Office forthwith, and in any event within 72 hours of registering that driver.

Schedule of Vehicles

The Private Hire Operator shall, in writing, notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage vehicle employed or used by the operator. This includes those Hackney Carriage vehicles licensed by this or other Authorities.

Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage vehicle, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.

The Private Hire operator shall retain a copy of the Hackney Carriage vehicle licence granted by another Authority along with a copy of the MOT or Compliance Certificate and policy of insurance and vehicle registration document and forward a copy of those documents to the Licensing Office within 72 hours.

Advertising on Vehicles

Where a Hackney Carriage vehicle is licensed by another Authority, such a Hackney Carriage driver or Hackney Carriage vehicle is expressly prohibited from using any literature, any documentation, any advertising or displaying any signage associated to the Private Hire Operator or Kirklees Council which suggests or might lead to a misunderstanding that the vehicle is licensed by this Authority.

Section 5 - Enforcement and Complaints Procedure

5.1 Authorised Officers

'Authorised Officers' are officers appointed by the Council to fulfil duties and carry out licensing functions on its behalf.

The 1976 Act defines an "authorised officer" as "an officer of a district council authorised in writing by the Council for the purposes of this Part of the Act".

Authorised Officers have the right to do the following: -

- require drivers to produce licences and insurance certificates;
- require operators to produce records;
- to remove plates and discs from vehicles;
- to inspect and test vehicles;
- suspend Vehicles from use;

Obstruction of authorised officers is a criminal offence.

The Council employs Licensing Officers who have the authority to exercise the powers set out in the 1847 and 1976 Acts.

Licence holders should be aware that licensing officers Bradford, Calderdale, Wakefield, Leeds, and York are also authorised, by Kirklees Council, to carry out the checks and actions detailed above. Equally licensing officers from Kirklees Council are authorised to carry out the checks and actions above on vehicles and drivers licensed by another member of the West Yorkshire Combined Authority.

5.2 Complaints

The Council will investigate all complaints made. Whilst investigating the complaint officers may invite the licence holder for a formal recorded interview. This is to ensure a full account of the interview is made and is there to protect the licence holder as well as officers.

Licence holders should be aware that where complaints of a serious nature are made i.e. complaints of a sexual nature, a licence maybe suspended and / or revoked while the complaint is investigated further.

Where appropriate a substantiated complaint, or a pattern of un-substantiated complaints, may result in the licence holder being referred to the Council's approved training provider for formal training. This will be at licence holders own expense, and the licence may be suspended in the meantime.

The Council also wants to ensure that remedial training or advice is provided to licence holders whose standard of driving or behaviour falls below the standards required and

pose a risk to their passengers. Licence holders may be required as part of their licensing conditions, to attend and pass any module of the initial driver training, or the awareness session, or any other type of training.

It is important that, when submitting a complaint, as much information as possible is included along with any supporting documentation that can be used in order to substantiate such a complaint. It is expected that licensees, will at all times act with integrity and professionalism. Complaints in regard to conduct and professionalism will be dealt with on a case by case basis and appropriate action taken where necessary.

5.3 Enforcement

The primary aim of the licensing authority is public safety and to provide a service that businesses and individuals can depend on for reasons of health, safety, welfare, equality and consistency.

The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered. In addition, the Council will undertake periodic auditing of currently licensed drivers and vehicles to ensure that perverse or wrong decisions are discovered and corrected. Such audits will be conducted using this policy as the required standard.

Therefore, the undertaking of compliance and enforcement checks on licensed drivers is essential in order to achieve this. Ultimately these checks are undertaken in order to ensure licensees continue to be fit and proper (as referred to in Appendix A and Section 2.2), are complying with the law and the conditions of their licence and to ensure the safety of passengers, pedestrians and other road users.

In order to achieve this objective the licensing authority ensures that licensed drivers are complying with statutory requirements, licensing conditions and byelaws; undertaking regular enforcement and compliance checks, whether it would be independently or with partners such as West Yorkshire police and the Driver and Vehicle and Standards Agency (DVSA).

A broad range of tools and powers are available to the licensing authority should breaches of compliance be found. The following options include but are not limited to:

- No Action;
- Informal Warning;
- Formal Warning;
- Review;
- Suspension;
- Revocation;
- Simple Caution; and
- Prosecution;

Where appropriate and where there are causes for concern the licensing authority will pass on information to partner organisations such as the police or the Kirklees Safeguarding Children Board.

Equally, the licensing authority will act on information received from those and other partner organisations and deal with complaints in line with the Council's complaints procedure.

In line with the Regulators Code and the Council's enforcement policy the licensing authority will choose the most appropriate form of enforcement under the circumstance. The licensing authority has at its disposal a range of enforcement and non-compliance options.

Illegal Plying for Hire

Illegal plying for hire (when a person driving a vehicle other than a licensed hackney carriage takes a fare that is not pre-booked) is a serious offence. Not only is it illegal but it puts the general public at great risk and has wider implications for those drivers and services that are operating legitimately, specifically in terms of lost revenue.

The licensing authority will, where it sees fit and where there are known hotspots and/or areas of concern (as identified by information gathering by enforcement officers, the police, complaints received by the general public and other licensed drivers), use licensing officers as covert passengers, therefore enabling the gathering of evidence and a greater prospect of taking legal action.

In taking such action, the licensing authority will;

- Endeavour to recover the costs of prosecutions from those convicted in order to reduce the financial burden on licensed drivers who work within the law;
- Officers will refer any current licensed drivers at the point where that there is sufficient evidence for the licensing authority to submit a file for legal proceedings to be brought against that driver;
- Unless there are exceptional circumstance offenders should expect to have any licences they hold immediately revoked and/or any application for a licence refused in line with the fitness and suitability criteria attached at Appendix A

Driving Whilst Unlicensed

It is very important to note that offences can be committed by the driving of a Hackney Carriage or Private Hire Vehicle by un-licensed drivers.

Hackney Carriage and Private Hire Vehicles remain licensed at all times a licence is in force, and cannot be driven otherwise than by an appropriately licensed driver. This extends to any unlicensed driver, including members of the family of the licensed driver.

Contravention of this rule may also result in the offence of driving whilst un-insured (and/or) permitting another to drive while uninsured.

5.4 Offences

There are several specific offences that apply to the hackney carriage and private hire trades. The 1847 Act and Bye-laws made under it together with the 1976 Act all have offences contained in them and are the ones to be aware of. Copies of the offences can be viewed at Appendix J.

In addition, all those concerned with the private hire and hackney carriage trades should make themselves aware of the relevant provisions of the Road Traffic Act 1988 e.g. speeding, traffic signs, insurance and defective vehicles.

5.5 Rights of Appeal

Any person aggrieved by a requirement, refusal, or other decision of a decision of the Council, including authorised officers, may appeal to Kirklees Magistrates' Court.

The 1976 Act makes special provisions relation to rights of appeal. Certain decisions in relation to applications being refused etc. are suspended until the 21-day appeal period has expired and if an appeal is lodged until such appeal is disposed of. On public safety grounds certain decisions may take immediate effect. There are also further rights of appeal to the Crown Court under the Public Health Act 1936.

Section 6 – Miscellaneous

6.1 Fares

The Council is not able to set the fares for private hire vehicles; this is a matter for the operator of the firm the vehicle works from.

In relation to hackney carriage vehicles, the 'Hackney Carriage Table of Fares' is set by the Council and are a maximum fare that can be charged by hackney carriage drivers, which can be negotiated downwards, by the hirer, for journeys within the Borough.

6.2 Fees

The Council is entitled to charge fees in respect of the various licences it administers and legislation provides that the fees charged to applicants should cover the cost of application and administration; and in relation to vehicles this extends to inspection, creation / maintenance of hackney stands, administration and enforcement and training.

Licences surrendered prior to their expiry shall not be eligible for a refund of the unexpired portion of the licence.

Fees are normally reviewed annually in accordance with Council policy.

6.3 Hackney Carriage Stands

The purpose of hackney carriage stands (taxi ranks) is to provide the public with a set location at which they can hire a licensed hackney carriage. Only Hackney Carriages licensed by Kirklees Council can stand on a taxi rank or stand as they are sometimes referred to. A list of ranks is available on the licensing web pages. [TOTO BE INCLUDED FOR FINAL POLICY]

There is an obligation on drivers when plying for hire in any street and not actually hired to proceed to one of the ranks designated under the 1976 Act. The 1847 Act defines a street as extending to any "road, square, court, alley and thoroughfare, or public passage". Land will only be a street if the public have a right to be there.

6.4 Public Registers

The Council is required by the 1847 Act to maintain a register of licences it issues. These and other information can be viewed on our web page -

<https://licensing.kirklees.gov.uk/paforlpaclive>

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HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

A Policy on the Relevance of Criminal Conduct, Improper Behaviour and Complaints against Licence Holders and Applicants for Licences.



Taxi and PHV Licensing Criminal Convictions' Policy

1. Introduction

The public are entitled to have the utmost confidence in drivers of taxis and private hire vehicles: therefore, the Council must ensure that only fit and proper persons obtain drivers' and operator licences.

The purpose of this policy is to provide guidance on the criteria taken into account by the Licensing Authority when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.

The overriding aim of the Licensing Authority is to protect the safety of the public.

The Licensing Authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safeguarding of children, young people and vulnerable adults.

In this scheme "safeguarding" means the protection of children or vulnerable adults from harm to their health, safety, well-being or development and "safeguarding concern" means grounds to believe that the individual applicant or driver may not be a fit and proper person because grant, retention or renewal of a licence may risk such harm occurring. Vulnerable adult has the meaning as in section 59 of the Safeguarding Vulnerable Groups Act 2006

This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for drivers' licences
- Existing licensed drivers whose licences are being reviewed
- Councillors
- Licensing officers
- Legal officers
- Magistrates hearing appeals against local authority decisions

For renewal applications and current licence holders the policy will not be applied retrospectively. However, the Policy will be applied to renewal and current licence holders if any additional convictions, cautions or complaints are incurred or brought to the attention of the Council that along with the historical information would call into question a person's suitability to hold a licence.

Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. Whilst officers will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits.**

All licences are issued with a set of Conditions which the licence holder must comply with. By-laws are also in place in relation to Hackney Carriage Drivers. Copies are attached to every licence and are available on request. A repeated breach of licensed driver and or licensed vehicle conditions and or by-laws may also lead to a person having his hackney carriage/private hire driver licence suspended or revoked.

2. General policy

There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are exceptional mitigating circumstances or alternatively

where there are many or continuous offences or complaints which may show a pattern of offending and unfitness.

A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- Remain free of conviction for an appropriate period; AND show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

Where an applicant has been convicted of a criminal offence, the Licensing Authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

It is the responsibility of the applicant/licence holder to satisfy the Licensing Authority that they are a 'fit and proper person' to hold a licence. The applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council.

3. Appeals

Any applicant refused a driver's licence on the grounds that the Licensing Authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

4. Powers

Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the Licensing Authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Licensing Authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

5. Consideration of disclosed criminal history

Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a '**fit and proper**' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Licensing Authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed

- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant's age at the time of conviction
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant

Existing holders of drivers' licenses are required to notify the Licensing Authority in writing **within seven days** of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

Applicants can discuss further what effect a caution/conviction may have on any application by contacting a licensing officer in confidence for advice.

The Licensing Authority conducts enhanced disclosures from the Disclosure & Barring Service (DBS) formerly the Criminal Records Bureau (CRB) of any applicant for a driver licence. The Licensing Authority follows the DBS's Code of Practice on the fair use of disclosure information. A copy is available on request.

Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense. The Licensing Authority abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

More information about the DBS can be found on their website at

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

The Licensing Authority is also entitled to use other records and information including any complaints history that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Licensing Authority or other Licensing Authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

DBS disclosures will not include details of any foreign convictions or cautions unless they have been recorded on the UK National Computer. Any applicant who has resided outside the UK for any period longer than 3 months within the preceding 3 years will be required to produce a "Certificate of Good Conduct" from the relevant countries which details any cautions or convictions arising against the applicant while resident in that country. It shall be the applicant's responsibility to obtain this documentary evidence and to bear the costs of such. The requirement is in addition to the DBS disclosure.

Where an applicant is unable to obtain the above, a discussion will take place with the licensing manager to ascertain what alternative evidence should be provided. This may include character references from appropriate individuals or other bodies as to the applicants conduct whilst resident in the other country.

If character references are supplied the referee must have known the person applying for at least 5 years if they are a friend, neighbour or colleague. If the referee is a professional, i.e. teacher, solicitor etc. then they must have known the person for at least 2 years.

The referee cannot be closely related to the applicant, in a relationship or live at the same address as the person applying.

Non-conviction information

If an applicant has, on one or more occasions, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include but is not limited to serious violent offences, offences involving child sexual exploitation and sex offences.

The Licensing Authority considers cases to the civil burden of proof i.e. a “balance of probabilities” and is able to make a decision on the alleged offences regardless of whether a criminal conviction followed the offence.

In assessing the action to take, the safety of the travelling public must be the paramount concern. It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

The following lists are **not exhaustive** and any offences not covered by this Policy will not prevent the Licensing Authority from taking into account those offences. The seriousness of the offence and sentence imposed will be considered in making a determination of the application.

6. Sex and indecency offences

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will normally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.

No period is thought appropriate to have elapsed and an application will normally be refused unless there are truly exceptional circumstances where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Sexual offences involving children, young persons or vulnerable adults
- Sexual Assault
- Indecent assault
- Abuse of position of trust
- Familial child sex offences
- Female circumcision
- Female genital mutilation
- Possession of indecent photographs of children
- Abuse of children and young persons through prostitution or pornography
- Trafficking for sexual exploitation
- Secondary, preparatory or inchoate offences (attempt, conspiracy, incitement to commit; or aiding, abetting, counselling or procuring, any of the above offences).
- Any sexual offence committed in the course of taxi or private hire work
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Exploitation of prostitution
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Before a licence is granted, an applicant should be free of conviction for at least 5 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

In addition to the above the Licensing Authority will not grant a licence to any applicant who is currently on the Sex Offenders Register.

A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

7. Offences against Children

No period is thought appropriate to have elapsed and an application will normally be refused unless there are truly exceptional circumstances where the applicant has a conviction for an offence such as:

- Sexual activity with a child
- Causing or inciting a child to engage in sexual activity
- Causing a child to watch a sexual act
- Sexual activity in the presence of a child
- Arranging or facilitating child prostitution or pornography
- Arranging or facilitating commission of a child sexual offence
- Meeting a child following sexual grooming etc.
- Possession of indecent photographs of children
- Grooming of children for sexual exploitation
- Trafficking of children for sexual exploitation
- Supplying or offering to supply Class A drugs to a child
- Voyeurism

A licence will not normally be granted unless there are truly exceptional circumstances where the applicant has a conviction for an offence of similar offence(s) which replace the offences below.

- Neglect of a child.
- Child cruelty
- Abandonment of a child
- Drunk in charge of a child

- Under the influence of drugs in charge of a child
- Exposing a child to risk

8. Serious offences involving violence

Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

In other cases anyone of a violent disposition will normally be refused. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.

Unless there are truly exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Infanticide
- Child destruction
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Kidnapping or abduction
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent (s18 Offences Against the Person Act 1861)
- Grievous bodily harm (s20 Offences Against the Person Act 1861)
- Robbery (armed or otherwise)
- Possession or distribution of prohibited weapon or firearm
- Riot
- Common assault with racially aggravated features
- Violent disorder
- Threats to kill
- Any HATE motivated crime
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted where the applicant has a conviction for one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offences

- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted where the applicant has a conviction for one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 3 years prior to the date of application:

- Common assault
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Harassment
- Obstruction (for example of a police or other authority investigation, making a false statement etc.)
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted where the applicant has a conviction for one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 5 years prior to the date of application:

- Assault occasioning actual bodily harm
- Assaulting a Police Officer
- Resisting arrest
- Battery

A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

9. Driving offences involving the loss of life

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

A licence will not normally be granted where the applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving while unlicensed, disqualified or uninsured
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Before a licence is granted, an applicant should be free of conviction for 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:

- Causing death by careless driving

10. Possession of a weapon

If an applicant has been convicted of possession of a weapon or possession of a firearm or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

11. Dishonesty

A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. All drivers are required to deposit such property with either the Licensing Authority or the police within 24 hours. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc.

Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. The more serious the offence the longer the period free of conviction should be. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- deception designed to obtain a pecuniary advantage
- other deception
- taking a vehicle without consent
- or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- perverting the course of justice

12. Drugs

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of or cultivation of drugs and has not been free of conviction for 10 years.

A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

13. Drink driving/driving under the influence of drugs

As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. Provided that a period of 2 years has elapsed since conviction an isolated incident would not necessarily debar an applicant from proceeding with an application but he should be warned as to the significant risk to his licence status in the event of re-offending.

More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 7 years, after the restoration of the driving licence following a second conviction for driving or being in charge of a vehicle whilst under the influence of drink or drugs should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

14. Outstanding charges or summonses

If the individual is the subject of an outstanding charge or summons their application may in some circumstances continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be given to the information in accordance with this policy.

If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused. Existing drivers may have their licence suspended or revoked.

A suspension or revocation of the licence of a driver normally takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

This section includes applicants or licensees who may be subject to police bail having been arrested for an offence and who is currently under investigation.

15. Cautions

Admission of guilt is required before a caution can be issued. A caution is therefore treated in the same way as a conviction for the purposes of this policy. Every case will be considered on its own merits including the details and nature of the offence.

16. Licensing offences

Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons or assistance dogs would normally prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

17. Complaints

We can take action up to and including suspension and revocation of a driver's licence if a complaint is made which suggests a driver's fitness & propriety is undermined. This may be for a number of reasons including but not limited to the following:

- misconduct
- any behaviour, action or negligence impacting on customer safety
- driving standards
- physical or mental ill-health
- lack of the necessary knowledge of English language to be able to perform the role of a licensed driver safely.
- Mischarging
- Inappropriate or aggressive behaviour

The number and type of complaint(s) will be given consideration to and a driver's history will be examined to ascertain whether there have been previous complaints. Except in the most serious of cases, a driver will be given an opportunity to respond to the complaint before any action is taken.

18. Insurance offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.

At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire driver's licence. An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

19. Licences issued by other Licensing Authorities

Applicants who hold a licence with one Licensing Authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

20. Suspensions / Revocations

A licence will be suspended by an Officer of the Council, with immediate effect, in the interest of public safety, in the following circumstances:

- a person is charged with a serious offence
- a person is under investigation for serious offences

- a person is deemed by a qualified general practitioner that the individual is unfit to drive to Group 2 Medical Standards
- a person after experiencing a change in medical condition fails to provide proof of his/her fitness to drive to Group 2 Medical Standards
- a person fails to provide a valid photo card DVLA driving licence, on request

A licence will be revoked by an Officer of the Council with immediate effect in the interest of public safety in the following circumstances:

- a person's ordinary Road Traffic Act Driving licence is revoked or suspended
- a person is disqualified from driving for any period of time

21. Summary

To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before the relevant period has elapsed.

Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

While it is possible that an applicant may have a number of convictions that, individually, do not meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Before a decision is made to refuse or revoke a licence a meeting will be held in order to afford an applicant or existing driver an opportunity to put their case.

In the Council's view this statement and the guidelines that follow are compatible with the rights and freedoms under the European Convention on Human Rights.

This policy will be continuously monitored and, if necessary, a review will be undertaken.

22. Motoring offences and penalty points

The following is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the courts (accurate at the time of this document).

Existing drivers who have accumulated 9 or more points on their DVLA driving licence will have to undertake a private hire or hackney carriage DSA driving test, at their own expense. If a driver fails to pass this test the hackney carriage/private hire license will be revoked on the basis the appropriate and required driving standards are not met.

New applicants are required, as part of the application process, to undertake a DSA driving test and therefore will be able to satisfy the Council of their driving ability.

Code Offence Penalty Points

Accident Offences

- AC10 Failing to stop after an accident 5-10
- AC20 Failing to give particulars or to report an accident within 24 hours 5-10
- AC30 Undefined accident offences 4-9

Disqualified Driver

- BA10 Driving whilst disqualified by order of court 6
- BA30 Attempting to driver while disqualified by order of court 6

Careless Driving

- CD10 Driving without due care and attention 3-9
- CD20 Driving without reasonable consideration for other road users 3-9
- CD30 Driving without due care and attention or without reasonable consideration for other road users 3-9
- CD40 Causing death through careless driving when unfit through drink 3-11
- CD50 Causing death by careless driving when unfit through drugs 3-11
- CD60 Causing death by careless driving with alcohol level above the limit 3-11
- CD70 Causing death by careless driving then failing to supply a specimen for analysis 3-11
- CD71 Causing death by careless driving then failing to supply A specimen for drug analysis 3-11
- CD80 Causing death by careless, or inconsiderate, driving 3-11
- CD90 Causing death by driving: unlicensed, disqualified or Uninsured drivers 3-11

Construction & Use of Offences

- CU10 Using a vehicle with defective brakes 3
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicles or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition 3
- CU30 Using a vehicle with defective tyre(s) 3
- CU40 Using a vehicle with defective steering 3
- CU50 Causing or likely to cause danger by reason of load or passengers 3
- CU80 Using a mobile phone while driving a vehicle 3

Dangerous Driving

- DD40 Dangerous Driving 3-11
- DD60 Manslaughter or culpable homicide while driving a vehicle 3-11
- DD90 Furious Driving 3-9

Drink or Drugs

- DR10 Driving or attempting to drive with alcohol level above limit 3-11
- DR20 Driving or attempting to drive while unfit through drink 3-11
- DR30 Driving or attempting to drive then failing to supply a specimen for analysis 3-11
- DR40 In charge of a vehicle while alcohol level above limit 10
- DR50 In charge of vehicle while unfit through drink 10
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive 10
- DR61 Failure to supply a specimen for drug analysis in circumstances other than driving or attempting to drive 10
- DR70 Failing to provide specimen for breath test 4
- DR80 Driving or attempting to drive when unfit through drugs 3-11
- DR90 In charge of a vehicle when unfit though drugs 3-11

Insurance Offences

- IN10 Using a vehicle uninsured against third party risks 6-8

Licence Offences

- LC20 Driving otherwise than in accordance with the licence 3-6
- LC30 Driving after making a false declaration about fitness when applying for a licence 3-6
- LC40 Driving a vehicle having failed to notify a disability 3-6
- LC50 Driving after a licence has been revoked or refused on medical ground 3-6

Miscellaneous Offences

- MS10 Leaving a vehicle in a dangerous position 3
- MS20 Unlawful pillion riding 3
- MS30 Play street offences 2
- MS50 Motor racing on the highway 3-11
- MS60 Offences not covered by other codes As Appropriate
- MS70 Driving with uncorrected defective eyesight 3
- MS80 Refusing to submit to an eyesight test 3
- MS90 Failure to give information as to identity of driver etc. 3

Motorway Offences

- MW10 Contravention of Special Roads Regulations (excluding speed limits) 3

Pedestrian Crossings

- PC10 Undefined Contravention of Pedestrian Crossing Regulation 3
- PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle 3
- PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle 3

Speed Limits

- SP10 Exceeding goods vehicle speed limits 3-6
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles) 3-6
- SP30 Exceeding statutory speed limit on a public road 3-6
- SP40 Exceeding passenger vehicle speed limit 3-6
- SP50 Exceeding speed limit on a motorway 3-6

Traffic Directions and Signs

- TS10 Failing to comply with traffic light signals 3
- TS20 Failing to comply with double white lines 3
- TS30 Failing to comply with 'Stop' sign 3
- TS40 Failing to comply with direction of a constable/warden 3
- TS50 Failing to comply with a traffic sign (excluding stop signs, traffic signs or double white lines) 3
- TS60 Failing to comply with a school crossing patrol sign 3
- TS70 Undefined failure to comply with a traffic direction sign 3

Special Code

- TT99 To signify a disqualification under totting-up procedure.

If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified

Theft or Unauthorised Taking

- UT50 Aggravated taking of a vehicle 3-11

Aiding, abetting, counselling or procuring

Offences as coded, but with 0 changed to 2 e.g. LC10 becomes LC12.

Causing or permitting

Offences as coded, but with 0 changed to 4 e.g. LC10 becomes LC14.

Inciting

Offences as coded, but with the end 0 changed to 6 e.g. DD40 becomes DD46.

Non-endorsable offences

Some offences are non-endorsable. A non-endorsable offence is an offence which courts do not endorse onto paper counterpart. No penalty points are attributed to these offences but they carry a period of disqualification.

At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

Period of time

Periods of time are signified as follows: D=Days, M=Months, Y=Years

Endorsements remain on a counterpart licence for the following periods of time:

Endorsements must remain on a licence for 11 years from date of conviction if the offence is:

- Drinking/drugs and driving (shown on the licence as DR10, DR20, DR20 and DR80).
- Causing death by careless driving whilst under the influence of drink/drugs (shown on the licence as CD40, CD50 and CD 60).
- Causing death buy careless driving, then failing to provide a specimen for analysis (shown on the licence as CD70).

Or 4 years from the date of conviction if the offence is as listed below:

- Reckless/dangerous driving (shown on the licence as DD40, DD60 and DD80).
- Offences resulting in disqualification.
- Disqualified from holding a full licence until a driving test has been passed.

Or 4 years from the date of offence in all other cases.

Source www.direct.gov.uk

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KIRKLEES COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

PART 11 – LICENSING OF HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

STANDARD CONDITIONS ATTACHED TO THE ISSUE OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

1. The Driver shall not assign or in any way part with the benefit of the Licence, which is personal to the Driver.
2. The Driver shall not while driving or in charge of a Private Hire Vehicle:-
 - a) tout or solicit on a road or other public place any person to hire or be carried for hire in any Private Hire Vehicle.
 - b) cause or procure any other person to tout or solicit on a road or other public place any on to hire or be carried for hire in any Private Hire Vehicle
 - c) offer that vehicle for immediate hire while the Driver or that vehicle is on a road or other public place
 - d) accept an offer for immediate hire of that vehicle while the Driver or that vehicle is on a road or other public place except where such an offer is first communicated to the Driver by telephone or by apparatus for wireless telegraphy fitted to that vehicle

In this Condition

“road” means any highway and any other road to which the public has access, and includes bridges over which a road passes.

3. The Driver shall not carry more passengers than allowed by his private hire or hackney vehicle licence.
4. The Driver shall at all times when driving or acting in accordance with the Driver’s licence granted to him wear the Driver’s badge issued to the Driver by the Council in such position and manner as to be plainly and distinctly visible.
5. The Driver’s badge referred to in the foregoing Condition shall remain the property of the Council, and if the Driver’s licence is not renewed, such badge shall be returned by the Driver to the Council within 7 days of a notice by the Licensing Manager or Senior Licensing Officer requesting the Driver to do so or immediately in the case of a suspension or revocation.
6. A failure to renew a Drivers licence by its expiry date will (unless there are exception circumstances supported by documentary evidence for the delay) result in the

Drivers badge lapsing and a driver having to make a fresh application for a new Drivers badge.

7. The Driver shall at any time or at such intervals as the Council may reasonably require, produce a certificate in the form required by the Council, signed by the drivers own general practitioner or doctor with access to the drivers medical records to the effect that he is or continues to be physically fit to be the driver of a Hackney Carriage or Private Hire Vehicle; whether or not such certificate is produced, the person shall, if required by the Council at any time, undergo a medical examination by a registered medical practitioner to be selected by the Council.
8. The Driver shall at any time or at such intervals as the Council may reasonably require be required to pass a driving test carried out by an authorised officer of the Council or other body approved by the Council.
9. The Driver shall at all times be clean and respectable in his dress and person, behave in a civil and orderly manner and afford all reasonable assistance with passengers' luggage and comply with all reasonable requirements of any person hiring or being conveyed in the vehicle.
10. The Driver shall, within 7 days, disclose to the Council in writing, details of any arrest whether charged or not, or any police investigation into his/her conduct. The Driver will also disclose to the Council in writing details of any conviction or caution imposed on him during the period of the Licence.
11. The Driver shall, within 7 days, notify the Council in writing of any change in his/her name address or phone number taking place during the period of the Licence.
12. The Driver shall not without the consent of the Hirer convey or permit to be conveyed any other person in that vehicle.
13. The driver shall take all reasonable steps to ensure the safety of passengers entering or leaving the vehicle.
14. The driver of a wheelchair accessible vehicle must ensure that any equipment associated with the carriage of wheelchair users must be in good order and ready for immediate use and that he is able to use such equipment in the correct manner.
15. The driver of a licensed vehicle shall, at the request of an authorised officer, stop the vehicle to enable a check to be made for the purpose of preventing or detecting any contravention of any statutory requirements, or of the conditions, applicable to the vehicle and its use as a licensed vehicle whether or not passengers are carried at the

time. It shall not proceed until the authorised officer is satisfied that all such requirements or conditions are being observed and complied with.

16. The driver shall if required provide a written receipt for the fare paid.
17. The driver shall declare to the Council any penalty points endorsed on his licence or any courses attended in relation to driving offences.
18. The driver must carry any assistance dog or guide dog with no extra charge that is accompanying a passenger unless he is in possession of an exemption certificate.
19. The driver shall ensure that at all times when driving a licensed vehicle for hire or reward that such a vehicle is kept in a clean and roadworthy condition.
20. The driver must ensure that his ability to drive is not impaired by working excessive hours. Guidance can be sought from the Road Transport (Working Time) Regulations 2005.
21. Drivers must cooperate with any authorised officer and / or police constable from any other licensing authority
22. Drivers must comply with the Councils Code of Conduct on Working with Vulnerable People

Revised ~~November 2015~~2018/2019

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Appendix C – West Yorkshire Driver Training Policy

Please note, proposal to adopt a West Yorkshire Driver Training Policy will be presented to a future Licensing and Safety Committee. Until such time as a policy has been considered and adopted the existing driver training requirements remain in place.

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Kirklees Council

Vehicle Specification

Part A – Hackney Carriage Vehicles

Part B – Private Hire Vehicles

Part C – Vehicle Dimensions

Vehicle Specification
Hackney Carriage Vehicles

Amended July 2008

Above the normal requirements for a MOT test, the Authority's Hackney Carriage test examines the following items

HACKNEY CARRIAGES

- 1.0 Local Authority conditions for licensing.
- 1.1 The whole of the vehicles paint work must be coloured white (two tone paint work coloured mouldings or insignia will not be permitted).
- 1.2 The vehicle must have Kirklees Metropolitan Council's official door sign displayed on top panel of the two front doors. The door signs to be of the adhesive type and securely attached to doors. Any sign not securely fitted i.e. placed on magnetic backing or any other temporary measure will be rejected.
 - Any tampering or cutting up of the signs will be rejected and new ones required.
 - Any signs that become damaged or defaced will require new ones.
- 1.3 The vehicle must have a roof mounted illuminated taxi sign (minimum width 1 metre) with the exception of London type cabs.
- 1.4 The vehicle must be fitted with a tariff meter approved by the Authority. The meter must be fitted securely, horizontal, clearly visible to all passengers, in working condition, professionally installed and set to the Authority's current tariff. The tariff card to be clearly displayed on near side window.
- 1.5 The vehicle must have a fire extinguisher (minimum weight of 0.95 kg and of a dry powder type. The fire extinguisher to be replaced after three years or carry a twelve monthly service label to indicate extinguisher is still serviceable. The fire extinguisher may be securely fixed within the driver's compartment or rear boot area; it may also be stowed in the glove box but must be clearly marked.
- 1.6 All Hackney carriage vehicles must have a seat belt that meets British safety standards fitted to each seat.

INTERIOR

- 2.1 All controls must be in a serviceable and working order (drivers pedals, all switches and controls etc).
- 2.2 No left-hand drive vehicles to be authorised.
- 2.3 The vehicles interior condition must be clean and free from damage.
- 2.4 All seat belts must be secure and operational, of a lap and diagonal type fitted to all Hackney carriage vehicles. With the exception of a lap belt only fitted to middle rear seat of a saloon type vehicle.
- 2.5 All windows, sun-roofs, locks and handles must be secure and operational.
- 2.6 Interior lights and instrument lights must be operational.
- 2.7 Where automatic boot and fuel locks are fitted they must be operational.
- 2.8 The vehicles heating and ventilation systems must be operational (including heated windows.
- 2.9 Where electric mirrors are fitted they must be operational.
- 2.10 The vehicle must carry a legal spare wheel and tyre and a means for changing a wheel.
- 2.11 MPV's must be fitted with a limpet " FOR HIRE" sign to the bottom front near side windscreen, clearly visible from the outside of the vehicle when applying for hire.
- 2.12 Seating capacity to be no more than six passengers (max).
- 2.13 Where short wave radios are fitted they must be securely attached to the vehicle in a position which does not interfere with all driving controls (all foot controls, steering, etc)of that vehicle. The wiring must also be installed to a professional standard and should not interfere with the same driving controls

EXTERIOR

- 3.1 All fitted lights must be clean and in working order.
- 3.2 All windows must have full visibility and free of stickers etc (other than the legal requirements of a tax disc and licence disc). With the exception of a company name/logo to the front screen visor.
- 3.3 Tinted or smoked glass will be assessed on an individual basis as the level of tint may vary from vehicle to vehicle the limits are front and rear windscreen 75% visible light transmission(VLT) and all side windows 70% VLT. These limits only apply to new applications after 01 January

2007, any existing taxi is exempt these limits. Testers should write on the pass certificate the relevant levels of tint for future reference. No adhesive films allowed. No adhesive films allowed, only tints built into the glass are acceptable. And no mirrored tints of any description.

- 3.4 When fitted rear wash wipe and headlight wash wiper systems must be operational.
- 3.5 All body fitments must be in place, secure and free from damage.
- 3.6 Vehicles must have a matching set of wheel trims fitted (with the exception of alloy or chrome wheels).
- 3.7 All road tyres must be of the same size and speed rating
- 3.8 Tyre side wall repairs will not be acceptable.
- 3.9 Wiring of meter equipment/radios must be of a professional standard (correct cable, fastenings and inline fuses to be fitted).
- 3.10 Engine and gearbox mountings must be secure and of a serviceable condition, gearbox and gear change mechanism must be in good working order.
- 3.11 Paint work must be to manufactures standards (no blemishes, blistering, discolouration, runs, no visible rust spots and have a polished finish).
- 3.12 The legal VIN (Vehicle Identification Number) plate and chassis plate must be fitted in a legible state.
- 3.13 Vehicle must display the Authorities licence plate which when viewed from the rear is clearly visible. The plate to be permanently attached to the vehicle.
- 3.14 The suspension must not be modified or lowered in any way that could adversely affect the handling, ride comfort or safety of the vehicle.
- 3.15 The fitting of bull bar type attachments is strictly prohibited
- 3.16 No jeep type vehicles to be allowed.
- 3.17 With the introduction of multi- purpose vehicles are capable of carrying more than four passengers, the acceptance criteria may vary from vehicle to vehicle depending on luggage space, seating layout and measurements. Each vehicle will be assessed individually for acceptance to carry adult passengers.

MPV

- 4.1 With the introduction of multi- purpose vehicles are capable of carrying more than four passengers, the acceptance criteria may vary from vehicle to vehicle depending on luggage

space, seating layout and measurements. Each vehicle will be assessed individually for acceptance to carry adult passengers

- 4.2 With the introduction of multi- purpose vehicles are capable of carrying more than four passengers, the acceptance criteria may vary from vehicle to vehicle depending on luggage space, seating layout and measurements. Each vehicle will be assessed individually for acceptance to carry adult passengers.
- 4.3 Above the annual test vehicles can be subject to 3 checks per year for safety and condition when required.
- 4.4 The London Cab on some models is equipped with a vinyl roof which will be accepted.
- 4.5 All accident damage must be repaired before test/checks can be carried out.

ADDITIONAL

- 5.1 Above the annual test vehicles can be subject to 3 checks per year for safety and condition when required.
- 5.2 The London Cab on some models is equipped with a vinyl roof which will be accepted.
- 5.3 All accident damage must be repaired before test/checks can be carried out.
- 5.4 Where a vehicle is presented for a test for the first time, i.e. new application or a change of vehicle class, the test may be carried out without side door signs, roof lights, meter, a limpet for hire sign and fire extinguisher although a pass certificate will not be issued until all the appropriate items above have been fitted and check.

Amended July 2008

TRANSPORT SERVICES
GUIDELINES FOR PRIVATE HIRE OPERATORS/ PROPRIETORS
Amended July 2008

Above the normal requirements for an MOT test the Authority's Private Hire Test examines the following items.

PRIVATE HIRE

- 1.1. The vehicle must not resemble a Hackney Carriage.
- 1.2. The vehicle must have Kirklees Metropolitan Council's official door sign displayed on the top panel of the two front doors. The door signs to be of the adhesive type and securely attached to the doors. Any sign not securely fitted i.e. placed on magnetic backing or any other temporary measure will be rejected.
- 1.3. Space is provided on the door sign to display information which the user may require i.e. company name and telephone number. Any tampering or cutting up of the signs will be rejected and new ones required.
 - Any tampering or cutting up of the signs will be rejected and new ones required.
 - Any signs that become damaged or defaced will require new ones
- 1.4. The vehicle may be fitted with a meter (the meter must be fitted securely and will be checked to the owner's tariff, which will be displayed). The meter will be tested at annual test.
- 1.5. The vehicle must have a fire extinguisher (minimum weight of 0.95 kg and of a dry powder type. The fire extinguisher to be replaced after three years or carry a twelve monthly service label to indicate extinguisher is still serviceable. The fire extinguisher may be securely fixed within the driver's compartment or rear boot area; it may also be stowed in the glove box but must be clearly marked.
- 1.6. All private hire vehicles must have a seat belt that meets British safety standards fitted to each seat.

INTERIOR

- 2.1 All controls must be in a serviceable and working order (drivers pedals, all switches and controls etc).
- 2.2 No left-hand drive vehicles to be authorised.

- 2.3 The vehicles interior condition must be clean and free from damage.
- 2.4 All seat belts must be secure and operational, of a lap and diagonal type fitted to all Private Hire vehicles. With the exception of a lap belt only fitted to middle front compartment seat and middle rear seat of a saloon type vehicle.
- 2.5 All windows, sun-roofs, locks and handles must be secure and operational.
- 2.6 Interior lights and instrument lights must be operational
- 2.7 Where automatic boot and fuel locks are fitted they must be operational
- 2.8 The vehicles heating and ventilation systems must be operational (including heated windows.
- 2.9 Where electric mirrors are fitted they must be operational.
- 2.10 The vehicle must carry a legal spare wheel and tyre and a means for changing a wheel.
- 2.11 Seating capacity to be no more than eight passengers (max).
- 2.12 Where short wave radios are fitted they must be securely attached to the vehicle in a position which does not interfere with all driving controls (all foot controls, steering, etc)of that vehicle. The wiring must also be installed to a professional standard and should not interfere with the same driving controls

EXTERIOR

- 3.1 All fitted lights must be clean and in working order.
- 3.2 All windows must have full visibility and free of stickers etc (other than the legal requirements of a tax disc and licence disc).
- 3.3 Tinted or smoked glass will be assessed on an individual basis as the level of tint may vary from vehicle to vehicle the limits are front and rear windscreen 75% visible light transmission(VLT) and all side windows 70% VLT. These limits only apply to new applications after 01 January 2007, any existing taxi is exempt these limits. Testers should write on the pass certificate the relevant levels of tint for future reference. No adhesive films allowed. No adhesive films allowed, only tints built into the glass are acceptable. And no mirrored tints of any description.
- 3.4 When fitted rear wash wipe and headlight wash wiper systems must be operational.
- 3.5 All body fitments must be in place, secure and free from damage.

- 3.6 Vehicles must have a matching set of wheel trims fitted (with the exception of alloy or chrome wheels).
- 3.7 All road tyres must be of the same size and speed rating
- 3.8 Tyre side wall repairs will not be acceptable.
- 3.9 Wiring of meter equipment/radios must be of a professional standard (correct cable, fastenings and inline fuses to be fitted).
- 3.10 Engine and gearbox mountings must be secure and of a serviceable condition, gearbox and gear change mechanism must be in good working order.
- 3.11 Paint work must be to manufactures standards (no blemishes, blistering, discolouration, runs, no visible rust spots and have a polished finish).
- 3.12 The legal VIN (Vehicle Identification Number) plate and chassis plate must be fitted in a legible state.
- 3.13 Vehicle must display the Authorities licence plate which when viewed from the rear is clearly visible. The plate to be permanently attached to the vehicle.
- 3.14 The suspension must not be modified or lowered in any way that could adversely affect the handling, ride comfort or safety of the vehicle.
- 3.15 The fitting of bull bar type attachments is strictly prohibited
- 3.16 No jeep type vehicles allowed

TRAILERS

- 4.2 Trailers must be of an all metal construction with a secure lockable hardtop cover.
- 4.3 Trailer weight not to exceed 750kg gross vehicle weight.
- 4.4 Must have all relevant lights fitted and working.
- 4.5 Trailer must be licensed to one specific vehicle only (no multi vehicle use allowed).
- 4.6 Trailer to be tested annually with relevant vehicle.
- 4.7 Towing vehicle must have two side entry doors for ease of escape in the event of an emergency.

4.8 National speed limits apply when towing trailer.

4.9 Trailers to be used by MPV type vehicles only.

MPV

5.1 Trailers to be used by MPV type vehicles only.

5.2 With the introduction of multi- purpose vehicles are capable of carrying more than four passengers, the acceptance criteria may vary from vehicle to vehicle depending on luggage space, seating layout and measurements. Each vehicle will be assessed individually for acceptance to carry adult passengers.

ADDITIONAL

6.1 Trailers to be used by MPV type vehicles only.

6.2 Above the annual test vehicles can be subject to 3 checks per year for safety and condition when required.

6.3 All accident damage must be repaired before test/checks can be carried out.

6.4 Where a vehicle is presented for a test for the first time, i.e. new application or a change of vehicle class, the test may be carried out without side door signs, roof lights, meter, a limpet for hire sign and fire extinguisher although a pass certificate will not be issued until all the appropriate items above have been fitted and check.

Amended July 2008

Hackney Carriage and Private Hire Vehicle Dimensions

Saloon Type Cars

- A. The width of the rear part of the body, measured six inches below the top and six inches in front of the rear back seat shall not be less than 52 inches. The measurement made with the doors closed.
- B. The rear seat shall not be less in width than the full interior width of the vehicle, provided that wheel covers forming permanent arm rests may reduce the seat length to 48 inches.
- C. The front seat shall not be less than 18 inches in width.
- D. The front and rear door entry width measured from the inside of the door seal aperture shall not be less than 24 inches.
- E. Rear seat head room shall not be less than 33 inches.
- F. The depth of any fixed seat shall not be less than 18 inches
- G. The distance between the front and rear seats shall be a minimum distance of 6 inches with the front seat fully retracted with the seat back in a normal driving position.
- H. Minimum height from ground 5.75 inches to main structure of vehicle, i.e height ground to undersill (structural member) or sub frame/front box section.
Sufficient clear and clean internal luggage capacity for maximum number of passengers.

Vans, Minibuses and MPV's

- A. Internal floor to roof height 52 inches
- B. Seat bases 16.5 x 16.5 inches
- C. Wheelchair access door height 46 inches
- D. Wheelchair access door width 27 inches
- E. Wheelchair floor space and method of securing to comply with all relevant legislation
- F. Luggage space compatible with seating capacity
- G. Taxi hire sign to be mounted at the centre of the roof in the front position (as with a London cab)
- H. A fire extinguisher to be a minimum 1kg accessible from driver's seat
- I. Seat base to roof height 33 inches

The above are the current dimensions which we use but due to changing vehicle types may be reviewed and change periodically.

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POLICY & CONDITIONS FOR ADVERTISEMENTS ON LICENSED VEHICLES

For the purposes of these Conditions, the words sign and advertisement shall apply to any sign, advertisement, notice or mark, illumination or similar feature.

1. Before any advertisement is displayed on a licensed vehicle consent must be sought from the Council.
2. Applications for consent must be made in writing and accompanied with the following:
 - a. Initial fee, full vehicle, four or more panel's £100 Initial fee, one or more panels £75 subsequent advertising amendments £25.
 - b. A detailed graphical representation including dimensions of the proposed advertisement and a representation of where the proposed advertisement is to be placed.
 - c. A contact name and telephone number of the organisation to be represented in any sign or advertisement.
3. All advertisements must comply with the British Code of Advertising Practice.
4. The Licensing Department will consider each application on its own merits and determine accordingly.
5. No advertisements may be placed on any glass including the dividing partition, other than notices approved by the Council.
6. The licence holder of a vehicle carrying any advertisement, shall ensure that the letter of approval from the Council to display the advertisement on the vehicle, shall be kept at all times within the particular vehicle and shall be available for inspection by an Authorised Officer or Police Officer on request.
7. No vehicle shall be permitted to bear any sign or advertisement in any form that might cause offence to members of the public.
8. No vehicle is permitted to bear any sign or advertisement in any form that may cause any degree of confusion as to the standing of the vehicle.

9. A Private Hire vehicle shall not be permitted to bear any sign or advertisement that may innocently or otherwise lead any person to believe or assume that it is a Hackney Carriage.
10. A vehicle shall not be permitted to bear any sign or advertisement of any business to such an extent that the vehicle might reasonably be mistaken for a courtesy vehicle provided by that business.
11. No sign or advertisement shall be located on, or next to any sign or advertisement required by law or local condition or in such close proximity that the sign is obscured for example, the rear Council licence plate or door-signs.
12. All signs and advertisement, if written in any foreign language, must be exactly reproduced in all aspects with the exception of the language, which must be English. The English version must be displayed in an area with equal prominence and visibility as the foreign version.
13. Materials used for advertisements must be of a quality not easily defaced or damaged. Advertisements must be affixed directly to the body of the vehicle or initially attached to an approved magnetic panel which is then attached to the vehicle.
14. The holder of a vehicle licence shall not remove or obscure any warning signs, safety messages or any other information or signage displayed on a licensed vehicle that is present when it is supplied by the manufacturer and that is aimed at assisting passengers to identify the type or features of the vehicle.
15. The Council shall have no responsibility to either the organisation represented or the vehicle owner, operator, proprietor, driver or any other person should any situation occur whereby the display of the advertisement has a detrimental effect on that person, or on that person's good name or reputation.
16. It is a stipulation of the Advertising Policy that vehicle interior and exterior signs or decals, mandatory or otherwise are compliant with the Councils current Hackney Carriage and Private Hire Conditions and Procedures.
17. The Council may order the removal of an advertisement or sign for any of the following reasons:-
 - a. It would not be proper for the Council to be associated with the advertisement or advertised organisation.
 - b. If the association with the advertisement or advertised organisation would bring the Council into disrepute.
 - c. Consent for the advertisement has not been granted or no consent has been sought for the advertisement from the Council

d. Any of the advertising conditions have not been complied with.

18. Failure to comply with any of these conditions or an order made under condition 17 may lead to the vehicle's licence being suspended. In line with the Council's current Hackney Carriage and Private Hire Licensing Conditions, such a decision will be made on a case by case basis.

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Kirklees Council Licensing Department

Hackney Carriage 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 the Borough of Kirklees with respect to hackney carriages in the administrative area of Kirklees.

Interpretation

1. Throughout these byelaws "the council" means the Council of the Borough of Kirklees and "the district" means the administrative area of Kirklees.
- 2.

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

3. (a) The proprietor of a hackney carriage shall cause the number of the license granted to him in respect of the carriage to be legibly displayed on the outside and inside of the carriage or on plates affixed there to.

(b) A proprietors or drivers of a hackney carriage shall: -

- (i) ensure any exterior plate shall be fixed at the rear of the vehicle in such a manner that its clearly visible;
- (ii) ensure any interior plate shall be fixed to the dashboard in such a position as to be clearly visible to all passengers;
- (iii) not willfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire; and
- (iv) not cause or permit the carriage to stand or ply for hire with any such display or plate so defaced the any figure or material particular is illegible.

Provision regulating how hackney carriages are to be burnished or provided

4. The proprietor of a hackney carriage shall:
 - (a) provide sufficient means by which any persons in the carriage may communicate with the driver;
 - (b) provide any necessary windows and means of opening and closing not less than one each side;
 - (c) cause the seats to be properly cushioned or covered and free from stains tears or holes;
 - (d) cause the floor to be provided with a proper carpet, mat, or other suitable covering;

- (e) cause the interior of the carriage to be kept in a clean condition, well maintained and in every way fit for public services;
- (f) provide means for securing luggage if the carriage is so constructed as to carry luggage; (g) provide an efficient fire extinguisher which is clearly and indelibly marked with the vehicle license and registration number and which shall be securely fixed on the driver's side of the vehicle in such a position so as not to impede the driver's vision or use of controls and so as to be readily available for use; and
- (h) 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.
5. The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached and maintained as to comply with the following requirements, that is to say.
- (a) The taximeter shall be securely affixed and shall not be mounted in either the footwells, or on top of the dashboard.
- (b) The taximeter shall be fitted with a device the operation of which will bring the taximeter into action.
- (c) The device shall be capable of being locked in such position the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter.
- (d) When the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figure a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance and time in pursuance of the tariff fixed by the council.
- (e) The word "fare" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded there on.
- (f) 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 covered shall be suitably illuminated during any period of hiring.
- (g) The taximeter and all the fitting thereof shall be securely fixed to the carriage with seals or other appliances so that it shall not be practicable for any person to remove or tamper with them except by breaking, damaging or permanently displacing the seals or other appliances

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

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

- (a) When standing or plying for hire, keep the taximeter switched off so no fare is recorded.
- (b) Before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter in action and keep it in action until the termination of the hiring.
- (c) Cause the taximeter to be kept properly illuminated throughout any of the hiring. 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 or with the seal affixed there to.
7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:
- (a) Proceed to one of the stands fixed by the council.
- (b) If the full number of carriages authorized to occupy occupies a stand, at the time of his arrival, proceed to another stand.
- (c) On arriving at a stand not already occupied by the full number of carriages authorized to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction.
- (d) From time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. 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.
9. 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 place.
10. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of person than the number of persons specified on the plate affixed to the outside of the carriage.
11. 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 a position and manner as to be plainly visible.
12. The driver of a hackney carriage shall, when requested by any person hiring or seeking to hire the carriage.
- (a) Convey a reasonable quantity of luggage.

- (b) Afford reasonable assistance in loading and unloading. (c) Afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.
13. The driver of a hackney carriage shall when requested by any person on hiring or seeking to hire the carriage, carry a guide dog accompanying a visually handicapped person.
 14. The proprietor and the driver of a hackney carriage adapted to carry disabled persons shall ensure that any necessary ramps are carried at all times or that any electric hoist fitted to the vehicle is kept maintained and in working order at all times.
 15. Provision fixing the rates or fares to be paid for hackney carriages within the district and securing the due publication of such fares.
 16. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire or the carriage the rate or fare prescribed by the council, the rates or fare being calculated by distance and time unless the hirer expresses at the commencement his desire to engage by time, when the rate or fare shall be calculated by time on a basis to be agreed between the hirer and the proprietor or driver at the commencement of the hiring. Provided always that were a hackney carriage furnished with taxi meter shall be hired by distance and time the proprietor or driver there for shall not be entitled to demand and take a fare greater than the recorded on the face of the taxi meter save for an extra changes authorized by the council which it may not be possible to recorded of the face of the taxi meter.
 17. (a) The proprietor of a hackney carriage shall cause the fare card provided by the council to be exhibited inside the carriage.

(b) The proprietor or driver of a hackney carriage shall not willfully or negligently cause the fare card to be concealed or rendered illegible at any time while the carriage is plying or is being used for hire.
 18. The proprietor or drive of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left there in.
 19. The proprietor or driver of a hackney carriage shall, if any property accidentally left there in by any person who may have been conveyed in the carriage be found by or handed to him:

(a) Carry it as soon as possible and in any event within 48 hour if not sooner claimed by or on behalf of its owner to the council hackney carriage licensing office on his giving a receipt for it.

(b) Be entitled to receive from any person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the council whichever be the greater) but not more than five pounds.

Penalties

20. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding level two 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 there for.

Repeal of Byelaws (2)

21. The byelaws relating to hackney carriages, which were made by the undermentioned authorities on the dates, referred to are here by repealed:

Name of the byelaw Dates

Date

Byelaws made by the Urban District of Spenborough

Byelaws made by the County Borough of Huddersfield

Byelaws made by the County Borough of Dewsbury

Byelaws made by the Urban District of Heckmondwike

Byelaws made by the Borough Of Spenborough

Bylaws made by the Borough of Battle

17th February 1948

25th January 1951

29th November 1951

28th July 1969

24th December 1956

26th March 1971

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KIRKLEES COUNCIL LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 PART II - LICENSING OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES STANDARD CONDITIONS ATTACHED TO THE ISSUE OF A PRIVATE HIRE VEHICLE LICENCE WITH EFFECT FROM 28th March 2008

1. The licence will remain in force for a period of one year unless the Council specify a lesser period or revoke or suspend the licence at any time.
2. No person shall use or permit the use of the vehicle as a private hire vehicle unless the disc and plate are exhibited on the vehicle in the following manner prescribed by the Council:
 - a. The Proprietor shall cause the number of this licence to be fixed and displayed on the vehicle at all times during which the vehicle is licensed as a private hire vehicle, such number to be displayed by means of the licence disc and the licence plate issued by the Council to the Proprietor.
 - b. The licence disc shall be fixed and displayed to the inside of the front windscreen on the kerb side in such a manner as to be clearly visible to any passenger, Constable or duly Authorised Officer, but not so as to obstruct or impair adequate forward vision of the driver of vehicle. The licence disc holder shall be fixed to the front near side windscreen, to be clearly visible to all passengers.
 - c. The licence plate shall be permanently fixed and displayed on, or in the near vicinity of the rear bumper of the vehicle, so as to be clearly visible on the rear of the vehicle at all times.
 - d. When a vehicle is licensed for private hire purposes it can only be used as a private hire vehicle and must be driven only by the holder of a current Kirklees Council Hackney Carriage/Private Hire driver's licence, clearly displayed on his/her person when driving such vehicle. No other person is permitted to drive the licensed vehicle at any time.

3. Vehicle Used for Executive Purposes Only

- a. Proprietors using vehicles for executive purposes only are exempted from conditions relating to signage and will be issued a licensed disc showing exemption. (Subject to approval)
4. The licence plate and licence disc remains the property of the Council at all times. If for any reason the licence is no longer required or is expired, the plate and disc must be returned to Licensing, Flint Street Depot, Flint Street, Fartown, Huddersfield, HD1 6LG within seven days.

5. Any Authorised Officer of the Council or any Constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any private hire vehicle licensed by the Council, or any taximeter affixed to such vehicle and if he is not satisfied as to the fitness of the vehicle or as to the accuracy of its taximeter he may by notice in writing require the Proprietor of the private hire vehicle to make it or its taximeter available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such Authorised Officer or Constable is so satisfied.
6. (a) Without prejudice to the provisions of the foregoing Condition the Proprietor of a private hire vehicle licensed by the Council shall present the vehicle for inspection and testing by or on behalf of the Council within such period and at such place within the area of the Council as they by notice reasonably require. Provided that the council shall not under the provisions of this Condition require the Proprietor to present the same vehicle for inspection and testing on more than three separate occasions during any one period of twelve months.

(b) No person shall use or permit the use of the vehicle as a private hire vehicle unless the vehicle is in a clean condition inside and out at all times.

(c) When a vehicle is over six years of age the licence will not be renewed unless in the opinion of the Council the vehicle is in an exceptionally well maintained condition. The licence will not be extended when the vehicle reaches ten years of age.
7. The Proprietor of any private hire vehicle licensed by the Council or in respect of which an application for a licence has been made to the Council shall, within such period as the Council may by notice reasonably require, state in writing the address of every place where such vehicle is kept when not in use and shall, if the Council so require afford to them such facilities as may be reasonably necessary to enable them to cause such vehicle to be inspected and tested there.
8. If the Authorised Officer or any Constable is not satisfied as to the condition or cleanliness of the vehicle for use as a private hire vehicle upon completion of the inspection and testing required by any of the foregoing Conditions, the Proprietor shall forthwith upon being required so to do by the Authorised Officer or Constable cause the licence plate and the licence disc to be removed from the vehicle and handed to the Authorised Officer or Constable who shall keep them in his custody until such time as he is satisfied as to the condition of the vehicle whereupon the licence plate and the licence disc will be returned to the Proprietor.
9. (1) If a private hire vehicle is equipped with any form of taximeter it shall not be used for hire unless such taximeter has been tested and approved by or on behalf of the Council or any other District Council by which a vehicle licence in force for the vehicle was issued.

(2) Any person who:-

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

10. (1) At all times the Proprietor shall during the currency of this licence keep in force in relation to the use of the vehicle as a private hire vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1972.

(2) The Proprietor of any private hire vehicle licensed by the Council shall at the request of any Authorised Officer produce for inspection the vehicle licence and the certificate of the policy of insurance or security required by Part VI of the Road Traffic Act in respect of such private hire vehicle.

11. Without prejudice to the provisions of Section 25 of the Road Traffic Act 1972, the Proprietor of a private hire vehicle licensed by the Council shall report to the Licensing department as soon as reasonably practicable, and in any case within seventy two hours of the occurrence thereof, any accident to such private hire vehicle causing damage materially affecting the safety, performance or appearance of the private hire vehicle or the comfort or convenience of persons carried therein.

12. The Proprietor shall not display or suffer or permit to be displayed on or from the vehicle:

(a) any roof sign;

(b) any sign or notice which consists of or includes the word "taxi" or "cab", whether in the singularly or plural, or any word of similar meaning or appearance to any of those words, whether alone or as part of another word; or

(c) any advertisement, any other sign including religious or nationalists symbols, notice or device or livery except as may be agreed from time to time by the Council or which is prescribed by or under any enactment;

(i) A Kirklees licensed private hire vehicle must display an adhesive sign on the top panel on each of the two front doors of the vehicle ONLY, and on no other part of the vehicle, glass or panels. Such door signs to be permanently stuck on to the door panel at all times the vehicle is licensed as a private hire vehicle. Magnetic signs are not permitted. Corporate door signs are now produced by the Council Licensing office. (ii) the Corporate door signs are subject to the Council's prior approval of the design, colour and wording of the sign. All new Private Hire Vehicle applications and annual renewals if not already purchased from Kirklees Council must display the new corporate door signs manufactured by the Council.

(iii) Failure to comply with this condition will entail the immediate suspension of the vehicle licence, and seizure of the magnetic or defaced items for destruction.

(d) The door sign will contain only the Company name/logo and telephone number, the top section of the sign must contain the wording "ADVANCED BOOKINGS ONLY" with a minimum letter height of 35mm. Any colour of the sign/wording will be considered with the exception of blue. All signs must be approved by the Council before fitting to licensed vehicles. The Council Licensing Service now has facilities to produce Corporate door signs on request. These Corporate signs to be purchased with all new and renewal applications if not already purchased from Kirklees Council.

Exemptions from d above: Section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976 states "a district council may attach.

13. If the Proprietor transfers their interest in any private hire vehicle licensed by the Council to a person other than the Proprietor whose name is specified in the licence they shall immediately attend the licensing office with the new proprietor to officially sign the transfer of the private hire vehicle.
14. Sub-sections (2) to (5) of Section 233 of the Local Government Act 1972 shall have effect and are incorporated by these Conditions to be given or served on the Proprietor by or on behalf of the Council by an authorised Officer.
15. Proprietor shall not cause or suffer or permit to be conveyed in the vehicle a greater number of persons exclusive of the driver than the number of persons specified in this licence and displayed on the licence plate.
16. The Proprietor shall cause to be carried on the vehicle an efficient fire extinguisher which shall be securely fixed on the driver's side of the vehicle or secured in the boot in such a position so as to be readily available for use and maintained in good working order at all times.
17. The Proprietor shall, within seven days, disclose to the Council in writing details of any conviction imposed on him (or if the Proprietor is a Company on any of its Directors or its Secretary) during the period of the licence.
18. The Proprietor shall, within seven days, notify the Council in writing of any change in his address taking place during the period of the Licence.

19. Guide Dogs

Guide dogs, all assistant dogs and all domestic pets, adequately restrained and controlled, other than dangerous wild animals as defined in the Dangerous Wild Animals Act 1976, must be carried in the vehicle unless there is a reasonable excuse for not carrying the animal(s). Each animal to be accompanied by a keeper.

20. The driver of the vehicle shall not refuse or neglect, without any reasonable excuse, to drive the vehicle to the destination he is so directed by the person hiring the vehicle.

21. The Proprietor shall produce an official letter of confirmation from the Private Hire Company he/she intends to work for. The Proprietor shall operate the vehicle only from the premises set out in the licence. If the Proprietor ceases to work from those premises, the Council must be notified immediately of the new address the vehicle will work from and the name of the person holding the Operator's Licence for those premises. The Proprietor shall also forthwith return the licence to the Council, so it can be amended appropriately.

22. Tinted Glass

All windows fitted to Kirklees Private Hire Vehicles MUST comply with the minimum legal requirements; to transmit 75% of light to the front windscreen and 21% light to all other vehicle windows. Further, all vehicles must meet required standards at annual testing. No tinted film is accepted on current licensed vehicles or new applications (with effect from January 2007).

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Local Government (Miscellaneous Provisions) Act 1972 Pre-Application Criteria & Standard Conditions Private Hire Operators Licence

1. OPERATOR LICENCE – THE APPLICATION PROCESS

Any person wishing to acquire a licence to operate a Private Hire vehicle shall be a 'fit and proper person' and produce such information as reasonably required by the Authority or undertake such appropriate training and testing as required to assist in establishing that assessment. The application to the Council shall be solely in their name on the prescribed form, and they must pay such fee as prescribed by the Council. Such fee is not returnable and may be set to enable the Council to tier fees appropriately relative to the number of vehicles operated.

2. POINT OF ENTRY TRAINING AND ASSESSMENT

Every applicant for an Operator licence shall be required to: -

- Complete the appropriate application form
- Complete a DBS Disclosure form •
- Attend a Private Hire Operator training and appropriate assessment

The Council will only issue licences to applicants that are deemed to be fit and proper. In assessing this, the Council will have regard to the following:

- Criminal record (including convictions, cautions, warnings, fixed penalties and reprimands), • Issue of any Magistrate's Court summons against them;
- Any harassment or other form of warning or order within the criminal law including AntiSocial Behaviour Orders or similar;
- Factors such as demeanour, general character, non-criminal behaviour, honesty and integrity,
- Previous conduct or complaints (particularly in cases where the applicant holds or has previously held a licence issued by Kirklees Council),
- Business practices demonstrated by the applicant (for example standard of record keeping, compliance with other regulatory requirements, financial practices etc.)
- Their arrest for any offence (whether or not charged)

3. BUSINESS PARTNERSHIPS

Every applicant shall in addition to the information specified in the above two paragraphs, provide the name, date of birth and address of any person if the applicant proposes to operate the business in partnership with any other person(s) and undertake the same 'fit and proper person' assessment and training and testing requirements. Each Operator licence issued by the Licensing Authority shall be issued only in the name

of the applicant and that person shall be deemed solely responsible as the Operator upon the licence being granted and the licence is not transferable from the first mentioned person to another person. An Operator shall, within seven days, disclose to the Council in writing details of any convictions imposed on him (or any business partners, directors or company secretary) during the period of the Licence or if he is arrested, cautioned or being investigated for any offence whether charged or not.

An Operator shall, within seven days, notify the Council of any change in his or his business partner's address taking place during the period of the Licence.

4. ADVERTISING

No Operator may use the word TAXI or CAB or HACKNEY CARRIAGE or any combination or derivation thereof in any advertising manner on the vehicles they operate, and any such advertising shall include the words Licensed Private Hire. Any other type of advertising on vehicles must be in accordance with the Councils "Advertising on Vehicles" Policy. A copy is available on the Councils website or on request.

5. RECORD OF BOOKINGS

An Operator shall keep records in the form prescribed by the Council containing particulars of booking and of private hire vehicle operated by him. Separate records must be kept at each premise from which the Operator carries on business. The records shall be produced immediately by the Operator or his employee on request to any Authorised officer of the council or to any constable for inspection. The records shall be kept for at least three years on the premises. The council prescribe the following:- An Operator shall keep a true and proper record of every booking of a Private Hire vehicle invited or accepted by him. The record shall be kept on computer or in a suitable book with consecutively numbered pages. Before each journey commences the Operator shall enter therein:-

- I. The place at which the booking was received and the date and time thereof
- II. The name of the hirer
- III. Whether the booking was made by telephone, personal call or other means (to be stated)
- IV. The address or other place from which it is to commence, the address or place of destination and the requested time, if any, for the journey to commence
- V. The plate number of the vehicle to be used for the journey
- VI. The name of the driver undertaking the hiring

If a computer is used it must be connected to a printer at all times in order that records can be printed on demand and the records must not be able to be retrospectively altered in any way. An Operator, having accepted a booking for a Private Hire vehicle shall ensure the vehicle, unless delayed or prevented by some reasonable cause, attends at the address from which the journey is to commence, at the required time. Drivers working for the Operators business will at all times be clean and respectable in their hair, dress and person and behave in a civil and orderly manner.

6. VEHICLE & DRIVER RECORDS

An Operator shall keep a record of each private hire vehicle operated by him, such record to contain details of:-

- The name and address of the proprietor to whom the vehicle licence has been issued
- The number of such vehicle licence
- The date of expiry of such vehicle licence
- The number of persons for whom the vehicle is licensed

The Operator must have in place a system of ensuring no driver works when his driving licence, insurance or vehicle licence have expired or been suspended or revoked or his vehicle has no valid compliance test in place. That system will be available for inspection at all times by an authorised officer of the Council.

7. VEHICLE LIVERY

An Operator shall cause permanent stuck on company signs (available from the council) to be displayed at all times on Private Hire vehicles when operating from their premises.

8. COMPLAINTS SYSTEM

Private Hire Operators must maintain a register of complaints by the public in a format approved by the Council (computerised or hard copy). The format of the complaints register must be maintained in the manner prescribed by the Council. Upon receiving any 'specified complaint' or allegation regarding any person licensed by the Authority Operators must report it immediately when the licensing office is open, and in any other event within 72 hours. The specified complaints or allegations are:

- of sexual misconduct, sexual harassment or inappropriate sexual attention
- racist behaviour
- Violence
- Dishonesty
- breaches of equality In straight forward terms, allegations of criminal behaviour whilst acting as a Private Hire Driver.

Low level' complaints can build up a business profile that can be indicative of a professional development need, or in the worst case the concealing of some potential significant offending or allegations of unsafe behaviour.

These concerns are to be dealt with by a requirement to maintain a 'register of complaints' and outcomes, for inspection by the Authority for a set period, of 12 months.

9. LICENCE DURATION

Each Operator licence issued by the Licensing Authority shall be valid for a period up to 5 years or as the Licensing Authority may decide, subject to any changes to primary legislation.

10. USE OF OPERATOR NAME FOLLOWING REVOCATION OF LICENCE.

Where an Operator licence is revoked by the Council, the name (or a similar name) of the Private Hire company associated with that licence cannot be used by another Operator until such time as six months has elapsed since the date of revocation or the date on which all appeal processes have been concluded (whichever is the longer).

11. Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not be issued with a licence and any existing licence may be revoked.

11. An Operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance or when unlawfully booked may have his Operator's Licence revoked immediately and will not be permitted to hold a licence for a period of at least three years.

12. ABSENCE FROM BUSINESS AND COMMUNICATION WITH PRIVATE HIRE OPERATORS

Private Hire Operators must notify the Council and nominate a responsible person to take responsibility on an interim basis if they are absent for 15 days or more and supply contact detail of the manager to the Local Authority. At all times the Private Hire Operator will ensure that the Local Authority has his/her most up to date contact detail including a mobile telephone number and email address. There should be a generic email address for the company and a confidential email address for the Operator so that sensitive information can be properly handled and held confidentially by the Operator.

Subsection (2) to (5) of section 233 of the Local Government Act 1972 shall have effect and are incorporated in these Conditions in relation to any notices required or authorised by these Conditions to be given or served on the Operator by or on behalf of the Council or by an Authorised Officer.

13. TRAINING TO EXPECTED STANDARDS OF SERVICE AND SAFETY DURING THE LIFETIME OF A LICENCE

During the lifetime of a Private Hire Operator licence, an Authorised Officer of the Council may require a licence holder to undertake reasonable and appropriate training to meet these expectations and requirements. Such a requirement would be in writing. A reasonable time scale of up to 3 months will be set for the training to be successfully undertaken at a place designated by the Council. If there is a refusal or failure to attend, or the licensed Operator does not meaningfully participate in the training or attain the training accreditation the licence may be suspended and consideration given to its revocation. The cost of such training will be borne by the licence holder. Similarly, the same considerations set out in the preceding paragraph will apply to those who manage distinct areas of the operating business or business partner(s).

14. ASSISTANCE DOGS

Every Proprietor, Driver and Operator of a licensed Private Hire vehicle shall ensure that assistance dogs are carried within the passenger compartment of the vehicle on request. Operators are reminded of their responsibilities under the Equality Act, 2010, and are advised

15. 'OUT OF TOWN' HACKNEY CARRIAGES ACTING AS PRIVATE HIRE VEHICLES IN THE KIRKLEES LICENSING DISTRICT

SCHEDULE OF DRIVERS

The Private Hire Operator, shall in writing, notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage driver employed or used for Private Hire bookings this will include Hackney Carriage drivers licensed by this or other Authorities. Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage driver, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing. The Private Hire Operator shall retain a copy of the Hackney Carriage driver licence granted by this or any other authority along with a copy of the driver's DVLA licence, and any other driver of that vehicle, and forward a copy of those documents to the Licensing Office forthwith, and in any event within 72 hours of registering that driver.

SCHEDULE OF VEHICLES

The Private Hire Operator shall, in writing, notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage vehicle employed or used by the operator. This includes those Hackney Carriage vehicles licensed by this or other Authorities. Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage vehicle, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing. The Private Hire operator shall retain a copy of the Hackney Carriage vehicle licence granted by another Authority along with a copy of the MOT or Compliance Certificate and policy of insurance and vehicle registration document and forward a copy of those documents to the Licensing Office within 72 hours.

ADVERTISING ON VEHICLES

Where a Hackney Carriage vehicle is licensed by another Authority, such a Hackney Carriage driver or Hackney Carriage vehicle is expressly prohibited from using any literature, any documentation, any advertising or displaying any signage associated to the Private Hire Operator or Kirklees Council which suggests or might lead to a misunderstanding that the vehicle is licensed by this Authority.

16. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, PART 2

All licences in connection with the driving and operation of Private Hire vehicles and all conditions attached to the grant of such licences are issued by the Licensing Authority in accordance with the provisions of the 1976 Act. Each Private Hire Operator shall make themselves aware of the provisions of the 1976 Act and any other relevant legislation

including the Licensing Authority conditions attached to the grant of a Private Hire Operator, driver or vehicle licence.

Kirklees Licensing

Temporary Lease Information

Kirklees Licensing have made some changes to the temporary lease process to make it as efficient as possible. Due to the amount of changes that have been made this “help sheet” has been created so that you can understand the information we require in order to licence vehicles as quickly as possible.

The steps you need to take to licence a vehicle with Kirklees;

1. Send us an email to licensing@kirklees.gov.uk attaching the correct application form, V5 and insurance.
(Please note that if the vehicle is licenced as a private hire already and the vehicle is required as a hackney the vehicle will not require a compliance test, however a meter test must be provided at this stage).
2. You will receive an email reply from Kirklees Licensing acknowledging your request. Please answer all the questions on the email and reply back.
3. You will receive a phone call from one of the Licensing team to take a payment and to confirm the dates and times of your appointments.
4. You will then receive an email confirming the location, dates and times of your appointments.
5. You and/or your driver will then attend the confirmed appointment(s).
6. Kirklees Council only accept card payments.

Please note that drivers can attend appointments without a representative present, however the responsibility of the licence remains with you as the licence holder.

Private Hire Vehicles

- All new private hire vehicles will be issued a 12 month licence providing the vehicle is less than 6 years old.
- If the vehicle is no longer required the plate, disc and door signs must be handed in at the Customer Service Centre. This will require a 10 minute appointment. You can book this appointment by calling 01484 456868, press option 1 for Taxi Licensing.

Hackney Carriage Vehicles

- Kirklees Council have created 10 temporary hackney plates also known as THV (temporary hackney vehicles) these are orange in colour.
- All temporary hackney carriages will be issued with a 2 month licence.
- The benefit of the new THV plate is that you can now licence your vehicle as a temporary hackney, without having to licence the vehicle as private hire first.
- All hackney vehicles must be white.

Extending the licence

- If you know the damage will take longer to repair than the 2 months licence issued you will need to email licensing@kirklees.gov.uk .
- The email must explain the reasons why the extension is required – this must be in the form of an official letter headed document from you or your client's insurance company. We will not consider an extension until satisfactory evidence is provided.
- Once we have received the evidence, a member of the Licensing team will contact you for payment and confirm with you an appointment to collect the licence.

Once your client's vehicle is fixed

- When the driver's vehicle is fixed he/she will need to drop in to the Customer Service Centre to see a Licensing Officer. If the officer is satisfied with the repairs the THV licence will be cancelled and surrendered and the suspension to their vehicle lifted.
- Please be aware that Kirklees Licensing **MUST** be handed back the orange THV door signs, plate and disc. Failure to do so will result in future THV plates not being issued to your company – therefore you will need to inform the driver of this.

If you have a Kirklees private hire vehicle that you want to licence as a hackney

- In this situation you will be charged for a transfer, plate, disc, x4 door signs.
- At point of application you must provide a meter test.
- The vehicle will already have a valid compliance test so the vehicle will not need to go to the garage.
- At the start of the process you will have been charged for 2 sets of door signs. 1 set for THV and 1 set for when the vehicle goes back to private hire. Please be aware that re-using door signs is not acceptable.
- If you have a private hire vehicle that is going to be used as a hackney carriage it must have a minimum of 12 weeks left of its compliance test.

If you licence a new vehicle straight to a THV (temporary hackney vehicle)

- If you licence a new vehicle straight to a hackney carriage you must contact Kirklees Licensing before the hackney plate expires if you wish to use the vehicle again.
- This is due to the fact that the vehicle will have a valid compliance test.
- So long as there is no lapse in the licence the vehicle can go straight to a private hire (please note there is a fee to do this). This vehicle will be licenced until the compliance test expires.
- Any lapse in the licence will require a new application.

All lease companies who licence vehicles with Kirklees Council must sign a copy of the vehicle conditions. These signed conditions will apply to all vehicles that you licence with Kirklees. We must receive a signed copy of the conditions before we can licence any future vehicles.

List of Offences

1. Hackney Carriages (HC)

Hackney Carriage Offences – Town Police Clauses Act 1847

Offence
Giving False information on application for HC proprietors Licence
Failure to notify change of address of HC proprietor
Plying for hire without HC proprietors Licence
Driving a HC without HC drivers licence
Lending or parting with HC drivers licence
HC proprietor employing unlicensed driver
Failure by HC proprietor to hold HC drivers licence
Failure by HC proprietor to produce HC drivers licence
Failure to display HC plate
Refusal to take a fare
Charging more than the agreed fare
Obtaining more than the legal fare
Travelling less than the lawful distance for an agreed fare
Failing to wait after a deposit to wait has been paid
Charging more than the legal fare
Carrying other person than the hirer without consent
Driving HC without proprietors consent
Person allowing another to drive HC without proprietors consent
Drunken driving of HC
Wanton or furious driving or wilful misconduct leading to injury or danger
Driver leaving HC unattended
HC driver obstructing other HC's

Hackney Carriage Offences – Local Government (Miscellaneous Provisions) Act 1976

Offence
Failure to notify transfer of HC proprietors licence
Failure to present HC for inspection as required
Failure to inform local authority where HC is stored if requested
Failure to report an accident to local authority
Failure to produce HC proprietors licence and insurance certificate
Failure to produce HC drivers licence
Making false statement or withholding information to obtain HC drivers licence
Failure to return plate after notice given after expiry, revocation or suspension of HC proprietors licence
Failure to surrender drivers licence after suspension, revocation or refusal to renew
Permitting any vehicle other than HC to wait on a HC stand
Charging more than the meter fare for a journey ending outside the district, without prior agreement
Charging more than the meter fare when HC used as private hire vehicle
Unnecessarily prolonging a journey
Interfering with a taximeter
Obstruction of authorised officer or constable
Failure to comply with requirement of authorised officer or constable
Failure to give information or assistance to authorised officer or constable

2. Private Hire (PH)

Private Hire Offences – Local Government Miscellaneous Provisions) Act 1976

Offence
Using an unlicensed PH vehicle
Driving a PH vehicle without a PH drivers licence
Proprietor of a PH vehicle using an unlicensed driver
Operating a PH vehicle without a PH operator's licence
Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle
Operating a PH vehicle when the driver is not licensed as a PH driver
Failure to display PH vehicle plate
Failure to notify transfer of PH vehicle licence
Failure to present PH vehicle for inspection as required
Failure to inform local authority where PH vehicle is stored if requested
Failure to report an accident to local authority
Failure to produce PH vehicle licence and insurance certificate
Failure to produce PH drivers licence
Failure to wear PH drivers badge
Failure by PH operator to keep records of bookings
Failure by PH operator to keep records of PH vehicles operated by him
Failure to produce PH operator's licence on request
Making false statement or withholding information to obtain PH drivers or operators licence
Failure to return plate after notice given after expiry, revocation or suspension of PH vehicle licence
Failure to surrender drivers licence after suspension, revocation or refusal to renew
Charging more than the meter fare when HC used as PH vehicle
Unnecessarily prolonging a journey
Interfering with a taximeter
Obstruction of authorised officer or constable
Failure to comply with requirement of authorised officer or constable
Failure to give information or assistance to authorised officer or constable

Working with Vulnerable People – Code of Conduct

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, an elderly person or somebody with learning difficulties for example. In addition, an individual should be considered vulnerable if they do fall within the description above, but their condition is such as to render them more susceptible to harm than may otherwise be the case (for example as a result of being under the influence of alcohol).

This code of conduct aims to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. The following safeguarding principles should be embedded into driver working practice:

- Drivers must carry photo ID at all times, and wear it in accordance with the conditions of licence.
- A vulnerable passenger must not be transported in the front passenger seat of the vehicle.
- The driver / operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver / operator is responsible for the provision of appropriate measures, however if appropriate measures are not in place then the driver / operator must not undertake the journey.
- When making a journey with vulnerable passengers, photo-identification should be produced to the carer responsible for the vulnerable person. If necessary, the driver should obtain a record of the carer's contact details if there is no chaperone.
- If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.
- Drivers should always ask if a vulnerable passenger needs help, and should not make assumptions.
- Drivers must remain professional at all times and should not:
 - Touch a person inappropriately
 - Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language)
 - Behave in a way that may make a passenger feel intimidated or threatened
 - Attempt to misuse personal details obtained via the business about a person

These standards are equally applicable when working with vulnerable and non-vulnerable passengers.

- A log should be maintained by drivers when a service has been provided to a vulnerable passenger including the details of any incidents occurring / actions taken or refusals of service.
- Drivers and operators must remain alert to issues around the safeguarding of children and vulnerable adults. If a driver/operator is concerned about the safety, welfare or behaviour of a vulnerable person, they should report this to the police by telephoning 101 (or in appropriate cases by calling 999).
- If a driver/operator is concerned about someone else's conduct, they should report your concerns to the council's licensing department (01484 456868), police (101) or Crimestoppers (0800 555111).

Name of meeting: Licensing and Safety Committee
Date: 13 March 2019

Title of report: Taxi & Private Hire Licensing – New Statutory Guidance from the Department for Transport

Purpose of report:

The purpose of this report is to inform Members of a consultation currently being undertaken by the Department of Transport on new statutory guidance in relation to the licensing of the private hire and hackney carriage trades.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance IT and Transactional Services? Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Karl Battersby Strategic Director – Economy and Infrastructure
Cabinet member portfolio	Councillor Naheed Mather

Electoral wards affected: All

Ward councillors consulted: All

Public or private: Public

1. Summary

- 1.1 To inform committee members of the start of a consultation in England and Wales on a set of new Statutory Guidance for licensing authorities.
- 1.2 To highlight to committee members the areas where the new guidance would have significant impact on the council's policies and the regional West Yorkshire and York policy review.
- 1.3 To seek member views on the response to the consultation and implications for current and planned policy reviews.

2. Information required to take a decision

Background

- 2.1 In 2017, the Department for Transport established a Task and Finish Group, with a remit to –
 - consider evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified.
 - identify the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
 - consider, in particular, the adequacy of measures in the licensing system to address those issues;
 - consider whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
 - make specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.
- 2.2 The Task and Finish Group reported their recommendations in October 2018. The Department for Transport has now published Taxi and Private Hire Vehicle Licensing: Protecting Users, Statutory Guidance for Licensing Authorities, attached at **Appendix I**.
- 2.3 The DfT has published plans to consult on the Statutory Guidance until 22 April.

Main Issue

- 2.4 Statutory Guidance does not alter the key legislation, nor does it make any new legislation. However, it is the strongest possible guidance central government can issue in guiding licensing authorities to review and update their policies.
- 2.5 The guidance advises every local authority to publish consideration of each of the recommendations contained in the guidance. It also advises licensing authorities that any failure to follow very closely the guidance without sufficient justification could be detrimental to the licensing authority when challenged.

Areas of Statutory Guidance

2.6 The guidance identifies 30 specific areas of guidance, summarised in the table below.

1.	Single taxi and private hire licensing policy
2.	Fit and proper person test
3.	Administration of the licensing framework and decision making, including officer and member roles
4.	Whistleblowing
5.	Implementing changes to licensing policy and requirements
6.	Disclosure and Barring Service (DBS)
7.	DBS Update Service
8.	Licensee self-reporting
9.	Referrals to DBS and police
10.	Overseas convictions
11.	Convictions policy
12.	Common Law Police Disclosure
13.	Other Information
14.	Multi agency safeguarding hub
15.	Complaints against licence holders
16.	Duration of licences
17.	Safeguarding awareness
18.	Other forms of exploitation. 'County Lines'
19.	Language proficiency
20.	Enforcement
21.	Suspension and revocation of drivers licences
22.	Criminal checks for PHV operators
23.	PHV Operators – ancillary staff
24.	PHV Operators - use of passenger carrying vehicles (PCV) licensed drivers
25.	PHV Operators – record keeping
26.	In vehicle visual and audio recording – CCTV
27.	Stretched limousines
28.	Consultation at the local level
29.	Convictions guidance
30	Staying safe – guidance for passengers

- 2.7 Some of the recommendations in the Statutory Guidance recommend a change or amendment to the policies and/or arrangements which are in place in Kirklees, and in many other licensing authorities.
- 2.8 Many of the recommendations of the Task and Finish Group, such as where journeys should start or finish, or on powers to cap the number of drivers or vehicles, are not included in the guidance.
- 2.9 Some of the recommendations may affect how the council reviews existing policies and works with neighbouring authorities to align/harmonise some key policies.

3 Implications for the Council

3.1 Working with People

The proposed statutory guidance will, in some areas, support Kirklees in ensuring there is a raising of standards and skills amongst licensed drivers in order to protect the travelling public; and ensure people across West Yorkshire are transported safely and protected from harm; that people in Kirklees experience a high quality, clean, sustainable and green environment, as well as improve the customer experience.

3.2 Working with Partners

The proposed statutory guidance advocates working more closely with partnering agencies. This will support the Council in developing its links with a number of partners, including, Kirklees Safe Guarding Children's Board, West Yorkshire Police, Public Health, Environmental Health, Overview and Scrutiny Committee, Community Safety Partnership and other West Yorkshire Authorities (inc York).

3.3 Place Based Working

The proposed statutory guidance will support the Council in the wider aspect of place based working, for example having policies in place to address some of the issues surrounding cross border working.

3.4 Improving outcomes for children

The proposed statutory guidance will support the Council in ensuring children have the best start in life and to ensure that the people of Kirklees feel safe and are protected from harm. The Council has a duty to protect the travelling public and safeguard children travelling in licensed vehicles and in particular for the purposes of school transport.

3.5 Other (eg Legal/Financial or Human Resources)

Legal

There are possible legal implications arising from this Statutory Guidance, concerning the key legislation for taxi and private hire licensing, which is the Local Government (Miscellaneous Provisions) Act 1976 and how those decisions are taken. This will be explored in further detail with Legal Services prior and included in the draft response if necessary.

Equality Implications

The Equality Act 2010 creates the Public Sector Equality Duty (PSED) and in order to fulfil the PSED the Council is required to assess the impact of any proposed action on the equality objectives set out above. The way in which the Council approaches this task is to conduct Equality Impact Assessments (EIA).

The DfT has completed its own impact assessment on the Statutory Guidance.

4. **Consultees and their opinions**

4.1 Not applicable

5. **Next steps and timelines**

5.1 Consultation on the Statutory Guidance will end on the 22nd April 2019

6. **Officer recommendations and reasons**

6.1 Members are asked to note the Statutory Guidance, and delegate to officers, in conjunction with the Chair of the Licensing and Safety Committee, authority to respond to the consultation on behalf of the licensing service.

6.2 Members are asked to contact officers and / or the Chair of the Licensing and Safety Committee with any specific consideration to be fed into the consultation response.

7. **Cabinet portfolio holder's recommendations**

7.1 N/A

8. **Contact officer**

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01484 221000
russell.williams@kirklees.gov.uk

Samantha Lawton
Operations Manager – Public Protection (Licensing)
01484 221000
samantha.lawton@kirklees.gov.uk

9. **Background Papers and History of Decisions**

- Appendix I – Proposed Statutory Guidance

10. **Strategic Director responsible**

Karl Battersby
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01484 221 000

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Department
for Transport

Taxi and Private Hire Vehicle Licensing: Protecting Users

Statutory Guidance for Licensing Authorities

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1. Introduction

- 1.1 The Department first issued Best Practice Guidance to assist those licensing authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades in 2006. Following consultation with stakeholders, taking into account their feedback on the original version, the Guidance was revised and updated in 2010.
- 1.2 There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers. Data from Greater Manchester¹ and Merseyside² on reported sexual assaults 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% in the Crime Survey for England and Wales³.
- 1.3 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this guidance, 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 2014⁴, 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.
- 1.4 There is consensus that common core minimum standards are required to regulate better the taxi and PHV sector, and the recommendations in this document are the result of detailed discussion and consideration. **The Department therefore expects these recommendations to be implemented unless there is compelling local reason not to.**

1 https://www.whatdotheyknow.com/request/sex_attacks_2

2 https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178

3 <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

4 <http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>

- 1.5 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Guidance issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxis and PHVs was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate the sector, this guidance would however cease to apply.
- 1.6 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*⁵ statutory guidance.
- 1.7 This new Statutory Guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department’s Best Practice Guidance was last updated. 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).
- 1.8 This Statutory Guidance replaces relevant sections of the Best Practice Guidance issued by the Department in 2010. A consultation on revised Best Practice Guidance, which focuses on recommendations to licensing authorities to assist them in setting appropriate standards (other than those relating to passenger safety) to enable the provision of services the public demand, will be taken forward once the final Statutory Guidance has been issued.

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 guidance and refers to all such vehicles. Taxis are able to be hired immediately by hailing on the street or at a rank.

Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All PHV journeys must be pre-booked via a licensed PHV 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 **PHV** is used throughout this guidance to refer to all such vehicles.

⁵ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

2. Statutory Guidance

Consideration of the Statutory Guidance

- 2.1 The Government set out in the Modern Crime Prevention Strategy⁶ 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.
- 2.2 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 PHV licensing regimes. Both the Jay⁷ and Casey⁸ reports on CSAE highlighted examples of taxi/PHV 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.
- 2.3 The Casey Report made clear that weak and ineffective arrangements for taxi and PHV 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 formulation of this Statutory Guidance.
- 2.4 This Statutory Guidance 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).
- 2.5 The Guidance 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 PHV licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.6 “Having regard” to guidance requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that this is statutory guidance issued directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these recommendations cannot be overestimated.** It is not a question of box ticking; the recommendations must be considered rigorously and with an open mind.
- 2.7 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 this Guidance might be drawn upon in any legal

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf

⁷ https://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham

⁸ <https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>

challenge to an authority's practice, and that any failure to adhere to the Guidance without sufficient justification could be detrimental to the authority's defence. **In the interest of transparency however, the Department encourages all licensing authorities to publish their consideration of the recommendations contained in this Guidance and the policies and delivery plans that stem from these. The Department has already undertaken to monitor the effectiveness of the Statutory Guidance in achieving an appropriately high level of standards in taxi and PHV licensing with regard to the protection of passengers.**

- 2.8 This Guidance 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.

Licensing policy

- 2.9 The Department encourages licensing authorities to create a cohesive policy document that brings together all their procedures on taxi and PHV licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 2.10 When formulating a taxi and PHV 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 failings⁹.

"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."

- 2.11 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."

9

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/401125/46966_Report_of_Inspection_of_Rotherham_WEB.pdf

- 2.12 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 PHV sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere are 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.
- 2.13 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. It is therefore recommended that licensing authorities regularly review their licensing policies and their performance, but should also consider interim reviews should there be significant issues arising in their area.

Fit and proper test

- 2.14 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or PHV 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?

- 2.15 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 2.16 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 2.19 below) 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 therefore include information that goes beyond criminal convictions.

Administration of the licensing framework

- 2.17 A policy is only as effective as the way it is administered. The taxi and PHV 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 where 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.
- 2.18 It is essential that all those involved in the determination of licensing matters have received sufficient training and are adequately resourced to allow them to discharge the function effectively and correctly. The Department for Transport

supports the recommendation of the LGA that, as a minimum, training should cover licensing procedures, natural justice, understanding the risks of CSAE and disability and equality awareness in addition to any other issues deemed appropriate. Training should not simply relate to procedures, but should also cover the making of difficult and potentially controversial decisions – the use of case study material can be helpful to illustrate this. 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 the LGA can assist in the development of training packages.

2.19 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.

2.20 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.

2.21 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 2.19. 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.

2.22 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. 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.

2.23 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.

2.24 Regardless of which approach is adopted, all councils 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.

Whistleblowing

2.25 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in this Guidance and believe that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of this Guidance is to protect children and vulnerable adults, and by extension the wider public, when using taxis and PHVs. However, it is in the application of these 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. It is therefore recommended that licensing authorities have effective internal procedures for staff to raise concerns and procedures in place 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.

- 2.26 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 PHV] passengers in the manner in which licensing issues were addressed*”. We are pleased to note that the report concludes¹⁰, “*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.*”
- 2.27 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.
- 2.28 The Public Interest Disclosure Act 1988 (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.

Implementing changes to licensing policy and requirements

- 2.29 It is important to remember that 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

¹⁰ http://www.southribble.gov.uk/sites/default/files/FINAL_REPORT_JUNE_2016.pdf

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.

- 2.30 Where a more subjective change has been introduced, for example an amended policy on previous convictions, licensing authority must still consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities are able to do so. Licensing authorities should record the reasons for any deviation from the policies in place.

The Disclosure and Barring Service

- 2.31 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. 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.
- 2.32 The DfT's 2018 survey of taxi and PHV licensing authorities¹¹ shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal. The Department considers that all licensing authorities should also request a check of the barred lists in addition to the enhanced DBS check, for individuals applying for or renewing taxi and PHV driver licences.
- 2.33 Enhanced certificates with 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. The filtering rules allow for certain old and minor convictions to be removed from a DBS certificate after an appropriate period has passed, but they do not allow filtering where an individual has more than one conviction, has received a custodial sentence or has committed a specified serious offence such as those involving child sexual abuse. Full details of the filtering rules, and those offences which may never be filtered, are available from the DBS¹². As well as convictions and cautions, an

¹¹ <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018>

¹² <https://www.gov.uk/government/collections/dbs-filtering-guidance>

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 detailed statutory guidance¹³ when considering disclosure. The information provided at each level of DBS checks is summarised in table 1.

- 2.34 It should be noted that licensing authorities must not seek to circumvent the legitimate filtering of previous criminal convictions and other information held by the DBS. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.
- 2.35 Whilst data protection legislation¹⁴ gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, you must not require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This is an offence under data protection legislation.
- 2.36 Driving a taxi or PHV is not, in itself, a regulated activity. This means that an individual subject to barring would not be legally prevented from being a taxi or PHV driver but the licensing authority should take an individual's barred status into account alongside other information available. It is the Department's opinion that, 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.
- 2.37 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006¹⁵. It is an offence to knowingly allow a barred individual to work in regulated activity. The guidance on home-to school travel and transport¹⁶ issued by the Department for Education should be considered alongside this document. Please see DBS guidance on driver eligibility and how to apply.

13 <https://www.gov.uk/government/publications/statutory-disclosure-guidance>

14 the full range of data protection legislation, not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)

15 <https://www.legislation.gov.uk/ukpga/2006/47/contents>

16 <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

INFORMATION INCLUDED IN CRIMINAL RECORD CHECKS				
Information included	Type of check			
	Basic	Standard DBS	Enhanced DBS	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	No	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

Table 1

1. Cautions include reprimands and warnings, but not 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 disclosed on any level of certificate. Further guidance is available at <https://www.gov.uk/government/publications/dbs-filtering-guidance/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).

DBS update service

- 2.38 Licensing authorities should make use of the DBS update service. This subscription service allows licensees to keep their DBS certificates up to date online and, with the individual's consent, allows licensing authorities (as a nominee) to check the status of a certificate online at any time. Subscription to the service removes the need for repeat checks, reduces the administrative burden and mitigates potential delays in relicensing. Licensees should be required to evidence continuous registration and nomination throughout the period of the licence.
- 2.39 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 level and type of DBS certificate. 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. Licensing Authorities should therefore consider routinely checking the DBS certificates of their licence holders, for example every six months.
- 2.40 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check facility that can be accessed via a web service. The Multiple Status Check facility enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the Multiple Status Check facility is available from the DBS.¹⁷ As discussed above, for taxi and PHV driver licensing purposes the recommended level of check is always the enhanced level with check of the adult and children Barred lists. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2.

Licensee self-reporting

- 2.41 As discussed above, the DBS update service is a valuable tool in discharging a licensing authority's duty to ensure that licence holders are fit to hold a licence. However, the routine checking of the DBS record should be in addition to a requirement that licence holders notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any motoring offence, or any offence involving dishonesty, indecency or violence. 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.
- 2.42 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of, would be a breach of a licence condition and might therefore be seen as behaviour that questions honesty and

¹⁷ <https://www.gov.uk/government/publications/dbs-update-service-multiple-status-checking-guide>

therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to DBS and the police

2.43 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS; for example, 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 in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the DBS¹⁸.

2.44 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;
- the DBS may consider it appropriate for the person to be added to a barred list.

2.45 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 available¹⁹.

2.46 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.

Overseas convictions

2.47 **The DBS cannot access criminal records held overseas.** 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. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before

18 <https://www.gov.uk/government/publications/dbs-barring-referrals-local-authority-referral-duty-and-power/referral-duty-and-power-for-local-authorities-and-regulatory-bodies#local-authorities-as-regulated-activity-providers>

19 <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

the age of 18 may not be relevant. For information on applying for overseas criminal record checks or ‘Certificates of Good Character’ please see the Home Office guidance²⁰. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.

- 2.48 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

Conviction policy

- 2.49 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.
- 2.50 Engagement with licensing authorities identified that greater direction from the Department was sought and in some cases required. The Department did not make specific recommendations regarding the assessment of convictions in the 2010 update of the Best Practice Guidance. In response to concerns raised by stakeholders and to assist in greater consistency in licensing, Annex A provides the Department’s recommendations on this issue. 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 PHV licensees²¹. These periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. 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 each case must be considered on its own merits, and applicants are entitled to a fair and impartial public hearing of their application if required.

Common Law Police Disclosure

- 2.51 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 PHV drivers.

²⁰ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

²¹ [https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

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.

- 2.52 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.
- 2.53 The new procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. We would therefore strongly recommend that licensing authorities maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

Other information

- 2.54 The LGA's Councillors' Handbook on taxi and private hire vehicle (PHV) licensing²² 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.*"
- 2.55 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 we strongly recommend that action taken as a result of information received is 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.
- 2.56 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.
- 2.57 As has been stated elsewhere in this guidance, 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 should therefore 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. For this process

²² <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

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.

- 2.58 The LGA's Taxi and PHV licensing Councillors' handbook²³ advises that Councils should meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared. 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 PHV driver licence refusals and revocations (the register is known as 'NR3'). The use of tools such as NR3 by licensing authorities to share information on a more consistent basis would mitigate the risk of non-disclosure of relevant information by applicants.
- 2.59 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 PHV driver 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 practice²⁴.
- 2.60 If notification under paragraph 2.57 or 2.58 of a refused or revoked license is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. The information disclosed 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.
- 2.61 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 2.57, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should therefore review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 2.62 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)

²³ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

²⁴ <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

should operate on three common principles: information sharing, joint decision making and coordinated intervention.

2.63 The Home Office report on Multi Agency Working and Information Sharing²⁵ 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 Groups²⁶ 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.

2.64 The Department recommends all licensing authorities should establish a means to facilitate the objectives of a MASH. As has been emphasised throughout this guidance, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and PHVs is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

2.65 The LGA recommends that all councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual licensees²⁷. 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.

2.66 Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that **must** be available on their website and displayed in 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 PHV driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged. A systematic recording of complaints will provide a further source of information to consider when renewing a licence for a driver or operator or identify problems during the period of the licence.

2.67 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.

25 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338875/MASH.pdf

26 https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If_only_someone_had_listened.pdf

27 <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

2.68 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 2.104 - 2.106.

Duration of licences

2.69 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and PHV drivers and five years for PHV operators. Any shorter duration should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case. Such circumstances could include where the licensing authority considers that a probationary period is necessary 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.

2.70 A previous argument against this length of licence 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 by requiring licensees to subscribe to the DBS update service as discussed in paragraphs 2.38 – 2.40 and authorities to undertake regular interim checks. To help authorities monitor licensees’ suitability, police forces should inform licensing authorities when they believe a licensee presents a risk to the travelling public. Paragraphs 2.51 - 2.53 provide further information about this process.

Safeguarding awareness

2.71 Licensing authorities should consider the role that those in the taxi and PHV 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.

2.72 It is the Department’s recommendation that licensing authorities provide safeguarding advice and guidance to the trade and that taxi and PHV drivers are required 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.

2.73 In February 2018, the Department for Education (DFE) launched phase 3 of its nationwide campaign – ‘Together we can tackle child abuse’. Building on phases 1 and 2, which ran in 2016 and 2017, it aims to increase public understanding of how to recognise and report child abuse and neglect. The DfE has developed an online toolkit²⁸ of material for local authorities, charities and other organisations to use to support the campaign.

Other forms of exploitation – ‘County lines’ drug trafficking

2.74 Victims of exploitation may not appear as such at first sight. 74% of police forces noted the exploitation of vulnerable people (including children) by gangs and organised criminal networks involved in trafficking illegal drugs within the UK²⁹ to move and store drugs and money across the country, often from urban areas to regional locations. They will frequently use coercion, intimidation, violence (including sexual violence) and weapons. This gang activity (known as county lines), and the associated violence, drug dealing and exploitation has a devastating impact on young people, vulnerable adults and local communities.

2.75 The National Crime Agency’s updated annual threat assessment of county lines reported that county lines groups are using taxis and PHVs as a method of transportation. In that assessment, 33% of police forces in England and Wales (14 forces) reported use of taxis and PHVs to transport drug couriers between markets. These couriers are often young people who have been exploited and may be victims of trafficking; the typical age range is 15-17 years old, but may be much younger. They may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues or reported as missing.

2.76 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:

- young people, sometimes as young as 12, travelling in taxis 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.

²⁸ <https://tacklechildabuse.campaign.gov.uk/>

²⁹ <http://www.nationalcrimeagency.gov.uk/news/1247-latest-threat-update-estimates-at-least-720-county-lines-drug-dealing-lines>

- 2.77 The Home Office is working with partners to raise awareness of county lines and has produced promotional material that can be used by taxi and PHV companies.³⁰
- 2.78 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

- 2.79 Authorities should consider whether an applicant would have any problems in communicating with customers because of language difficulties. Licensing authorities have the freedom to specify the level of proficiency, but it is recommended to cover both oral and written English language skills necessary to fulfil their duties, including in emergency and other challenging situations. This should include:
- conversing with passengers to demonstrate an understanding of the desired destination, an estimation of the time taken to get there and other common passenger requests;
 - providing a customer with correct change from a note or notes of higher value than the given fare, and doing so with relative simplicity;
 - providing a legibly written receipt upon request.

Enforcement

- 2.80 Implementing an effective framework for licensing authorities is essential to a well-functioning taxi and PHV sector. These steps will help prevent the licensing of drivers that are not deemed ‘fit and proper’ but does not ensure that those already licensed continue to display the behaviours and standards expected.
- 2.81 We have discussed the benefits of licensing authorities working collaboratively in regard to the sharing of information, and this can equally apply to enforcement powers. 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. Together with increased clarity for the public on complaining, these measures will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and

³⁰https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff?utm_source=HO&utm_campaign=LA

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' handbook³¹.

2.82 It is not reasonable to expect drivers to adhere to a policy unless they 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.

2.83 The Department suggest that there should be a clear, simple and well-publicised process for the public to make complaints about drivers and operators. 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

2.84 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

2.85 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 PHV sector has been issued by the Home Office³². 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.

2.86 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the

³¹ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

³² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/613415/A_Licensing_Authority_guide_to_right_to_work_checks_-_England_and_Wales.pdf

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.

2.87 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 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.

2.88 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.

2.89 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.

Criminal record checks for PHV operators

2.90 As with driver licensing, the objective in licensing PHV operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles they dispatch are above all else safe. It is important therefore that licensing authorities are assured that the operators they license also pose no threat to the public and have no links to serious criminal activity. Although an operator may not have direct contact with passengers, they are still entrusted to ensure that the drivers and vehicles used to fulfil a booking are appropriately licensed and so 'fit and proper'. PHV operators are also frequently provided with sensitive information such as periods when a home may be vacated as the residents are on holiday. Those making licensing decisions should consider whether they would be content for an applicant to hold sensitive information and are confident that this would not be misused.

2.91 PHV operators (as opposed to PHV drivers) are not eligible for standard or enhanced criminal records checks. We recommend that licensing authorities request a criminal conviction certificate (Basic disclosure) from the DBS. Any individual may apply for a Basic check and the certificate will disclose any unspent convictions recorded on the PNC. Licensing authorities should consider whether an applicant or licence holder with a conviction for offences detailed in Annex A (other than those relating to driving) meet the 'fit and proper' threshold.

2.92 PHV operator 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 PHV

operators should be required to advise the licensing authority of any changes to the directors or partners.

- 2.93 Individuals, directors or partners granted a PHV operator licence should be required to subscribe to the DBS update service as a condition of licensing and licensing authorities should consider routinely checking the DBS certificates of their licence holders, for example every six months
- 2.94 As explained earlier in the context of driver licensing, the **DBS cannot access criminal records held overseas**. 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. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before the age of 18 may not be relevant. For information on applying for overseas criminal record checks or a 'Certificate of Good Character' please see the Home Office guidance³³ on criminal record checks for overseas applicants. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.
- 2.95 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in Annex A, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

PHV Operators - ancillary staff

- 2.96 PHV drivers are not the only direct contact that PHV users have with PHV operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle controller decides which driver to send to a user, a position that could be exploited by criminals. It is therefore appropriate that all staff that have contact with PHV users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 2.97 Licensing authorities should be satisfied that PHV 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 request that, as a condition of granting an operator licence, a register of all staff that will take bookings or dispatch vehicles is kept. The operator should be required to evidence that they have had sight of a Basic DBS check on all individuals listed.
- 2.98 Operators or applicants for a licence should also be required 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 PHV operators' licence, those with a

³³ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

conviction for offences detailed in Annex A (other than those relating to driving) may not be suitable to handle the sensitive information the public may provide (e.g. that their home is likely to be empty between certain dates) or to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

- 2.99 Those granted an operator licence should be required to maintain a register of staff that take bookings and/or control vehicles and 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.

PHV Operators – Use of passenger carrying vehicles (PCV) licensed drivers

- 2.100 Members of the public are entitled to expect when making a booking with a PHV operator that they will receive a PHV 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 PHV booking should not be permitted as a condition of the PHV operator's licence. Drivers of PSVs who are PCV licence holders are not subject to the same checks as PHV drivers, as the work normally undertaken, i.e. driving a bus or coach, does not present the same risk to passengers.

PHV Operators - record keeping

- 2.101 Section 56 of the Local Government (Miscellaneous Provisions) Act 1976³⁴ requires PHV 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. The particulars to be recorded may be specified by the licensing authority as a condition of the operator licence. The Department recommend that this information should include:

- 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.

- 2.102 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 six months is generally appropriate as the length of time that records should be kept.

³⁴ <http://www.legislation.gov.uk/ukpga/1976/57>

2.103 PHV 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.

In-vehicle visual and audio recording – CCTV

2.104 Government has acknowledged the potential risk to public safety when passengers travel in taxis and PHVs. In 2012 the Government enabled licensing authorities to undertake enhanced DBS checks. The Department appreciates that all licensing authorities have recognised the risk posed by the very small minority of licensed drivers and undertake this level of check. It is unfortunately the case that no matter how complete the information available to licensing authorities is, nor how robust the policies in place are and the rigor with which they are applied, it will never remove the possibility of harm to passengers by drivers. 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/PHV 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.

2.105 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 Wales³⁵ only 17% of victims report their experiences to the police, 28% 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.

2.106 The mandatory installation of CCTV in vehicles may deter people from seeking a taxi or PHV 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.

2.107 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 and targeted i.e. only when

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

passengers (or drivers) consider it necessary and all parties should be made aware that a recording is being made. 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.

- 2.108 It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and PHV 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.
- 2.109 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.
- 2.110 The Home Office '*Surveillance Camera Code of Practice*'³⁶ 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
- 2.111 The Code also sets out 12 guiding principles which, as a 'relevant authority' under the Protection of Freedoms Act 2012³⁷, 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.

³⁶ <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

³⁷ [Section 33\(5\) of the Protection of Freedoms Act 2012](#)

- 2.112 The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '*Passport to Compliance*'³⁸ 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 Office³⁹ (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 tool⁴⁰ to assist operators to ensure compliance with the principles set of in the Surveillance Camera Code of Practice. The SCC also operate a certification scheme⁴¹; 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.
- 2.113 The Data Protection Act 2018⁴² 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 guidance⁴³ on how data controllers can ensure compliance with these.
- 2.114 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 guidance⁴⁴ 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. Licensing authorities should consult on this issue 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 PHV users, including children or vulnerable adults.
- 2.115 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

38 <https://www.gov.uk/government/publications/passport-to-compliance>

39 <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

40 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-self-assessment-tool>

41 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme>

42 <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

43 <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

44 <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/>

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.

- 2.116 All passengers must be made aware if CCTV is operating in a vehicle. 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.

Stretched Limousines

- 2.117 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as PHVs. 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. Indeed, the Department's view is 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 service from the scope of the PHV 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.
- 2.118 Stretched large limousines which clearly have more than eight passenger seats should not in most circumstance be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the Individual Vehicle Approval (IVA) regime accepts vehicles with space for more than eight passengers, particularly where the precise number of passenger seats is hard to determine. In these circumstances, if the vehicle has obtained an IVA certificate, 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.

Consultation at the local level

- 2.119 It is good practice for licensing authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV 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.

- 2.120 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and PHV sector in neighbouring areas; it would therefore be good practice to engage with these to identify any concerns and issue that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; the Department considers this approach to be good practice.

Annex A – Previous convictions guidance

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 PHV 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 public hearing of their application if required. The periods given below should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. 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

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

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

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.

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 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

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 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

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

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 of 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 PHV 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/using a hand-held telephone or hand held device whilst driving

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 the case of driving under the influence of drugs, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

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.

Annex B - 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 PHVs e.g.:

- a taxi can be flagged down or pre-booked.
- a PHV that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a PHV 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.