



# Policy on the Administration and Regulation of Hackney Carriage and Private Hire Licences.

## Approvals/amendments

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## **SECTION 1 GENERAL**

### **1. Introduction**

- 1) This policy was first approved by the Council's Licensing Committee on the 11 October 2012 and became effective on the 01 January 2013. Amendments were approved in July 2014 commencing July 2014, with further amendments being approved in July 2015 coming into effect on 01 October 2015 and in June 2019 coming into effect on 01 October 2019.
- 2) The purpose of the policy is to ensure the provision of public transport by hackney carriages and private hire vehicles to the residents and visitors of Torfaen is safe, reliable, comfortable, clean, and creates a positive image of the borough.
- 3) Torfaen County Borough Council (The Council) has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, in order to regulate the provision of hackney carriages and private hire vehicles operating in its area, the borough of Torfaen.
- 4) Vehicles regulated by the above stated legislation and this policy are any passenger carrying vehicle with 8 or less passenger seats. Vehicles with more than 8 passenger seats used for public transport must be licensed by the Traffic Commissioner at the Driver and Vehicle Standards Agency (DVSA)..
- 5) The Council expects all licensed operators, drivers and vehicle proprietors to comply with all national or local legislation regulating the use of motor vehicles on public roads.
- 6) All vehicles, proprietors, drivers and operators of hackney carriages and private hire vehicles must be licensed by the Council before they can operate a vehicle as either a hackney carriage or private hire vehicle in the borough of Torfaen. All licences must be issued by Torfaen County Borough Council, and cannot be issued by another council.
- 7) This policy provides guidance, conditions of application, and conditions that licence holders must adhere to when acting in the capacity of a driver, operator or proprietor. It includes the Council's policy on convictions, the application of the "fit and proper person" test and vehicle standards. The conditions are set out in the relevant sections of this policy for each type of licence.
- 8) Licence holders are required to comply with the terms and conditions of this policy. Directions to access an online version of the policy will be provided to each licence holder when a licence is issued. Printed copies of the policy will also be available on request.
- 9) The Council will follow the terms and conditions of this policy when making decisions on any licensing matter related to hackney carriage and private hire licensing. However, all decisions must be considered in the light of the current circumstances and, if there are exceptional circumstances, may be referred to the Licensing Panel or Chief Officer who may make a decision not to follow the policy.

- 10) It is a presumption that a licence will be granted where the criteria of this policy and the legislation are met.
- 11) This policy is subject to change in accordance with any subsequent changes in national legislation that will always take precedence over this policy. A review of this policy will be carried out every 5 years but interim reviews will be considered where there are significant issues arising in the borough.
- 12) The implementation schedule for any changes introduced as a result of a review of this policy will be transparent and communicated promptly and clearly. Where a licence holder or their vehicle ceases to meet the requirements of the policy, a review of the licence will be carried out. A pragmatic approach will be taken, however, and the licence holder given the opportunity to remedy any failings, rather than licences being automatically revoked overnight. Where a more subjective change is introduced as a result of a review of the policy, for example an amended policy on previous convictions, each case will be considered on its own merits.
- 13) Errors and omissions excepted.

## **2. Definitions**

In this policy, unless the subject or context otherwise requires:

- 1) "The Council" means the Torfaen County Borough Council.
- 2) "Authorised Officer" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976. i.e. any officer of a County Council duly authorised in writing by that Council.
- 3) "Private Hire Vehicle" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976
- 4) "Hackney Carriage" has the same meaning as in the Town Police Clauses Act 1847 and is the same meaning as 'Taxi'
- 5) "The Vehicle" means the hackney carriage vehicle or private hire vehicle.
- 6) "The Operator" means a person holding a licence to operate private hire vehicles issued pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976
- 7) "Proprietor" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976 i.e. the person or persons or body named in this licence as the proprietor of the vehicle and includes a part-proprietor.
- 8) "The Identification Plate" means the plate issued by the Council for the purpose of identifying the vehicle as a hackney carriage or private hire vehicle.



- 9) "Employ" means to use the services of, whether under a contract of service or a contract for services or otherwise, and employee, employer and employed shall be construed accordingly.
- 10) He/his shall also mean to apply to the female and gender-neutral equivalents, i.e. she/her, they/their etc.

### 3. Disability awareness

#### 1) General

- a) The Council requires all operators and drivers to be compliant with the provisions of the Equalities Act 2010, which has specific sections on private hire and hackney carriages not discriminating on the grounds of disability, including the requirement to carry assistance dogs.
- b) The Council supports any form of transport that provides a service for disabled persons and encourages operators and proprietors to provide a 24 hour service for disabled persons. The Council strongly encourages the provision of wheelchair accessible vehicles in the private hire and hackney carriage trade.

#### 2) Wheel Chair Accessible Vehicles

The Council does not specify the type of vehicle that can be licensed for carrying wheelchair bound passengers. However, the vehicles must be either purpose built or have the required safety certificates for any mechanical equipment or conversion, which includes a Vehicle Certification Agency (VCA) M1/2 approval. They must also be capable of safely transporting a wheelchair-user using a 'reference' size wheelchair, whilst remaining in their wheelchair. The Council considers a 'reference' wheelchair to be that defined within [schedule 1 of the Public Service Vehicles Accessibility Regulations 2000](#).

#### 3) Driver training

- a) The Council encourages all drivers to attend disability-awareness training; this not only includes wheelchairs-users but knowledge of the needs of people with a wide range of disabilities. The Council expect **ALL** (not just those who drive wheelchair accessible vehicles) drivers and operators to be trained in all aspects of disability. In time the Council will be making it a requirement.
- b) Disabilities include limited or restricted movement, sight or hearing disabilities, learning difficulties and mental impairment. This list is not exhaustive. The provisions of the current Equalities Act will be taken into account when determining if a person is classed as disabled.
- c) Drivers of wheelchair accessible vehicles are advised to attend a recognised training course to ensure that they comply with health and safety requirements for handling and securing wheelchairs.

- d) The Council may review the licences of any driver/operator who is found to be deficient in disability awareness following a complaint. The lack of training/knowledge on the part of the driver/operator will not be accepted as a defence to the allegation.

#### **4. Sexual Exploitation and Sexual inappropriateness.**

- 1) Recent reports into child sexual exploitation have highlighted links with the hackney carriage and private hire trade. The Council has had to deal with complaints from hirers of inappropriate behaviour of licence holders.
- 2) The Council takes matters of sexual exploitation and inappropriate behaviour at any time, not just in the course of a licence holder's business or employment, very seriously, and will take immediate action to revoke a licence where there is sufficient information to justify that action.
- 3) Where any allegation of criminal sexual activity or inappropriate sexual behaviour is received by the Council, this will be dealt with robustly and, where sufficient information is made available, action against that licence holder may result in that licence being revoked.
- 4) Licence holders must not make any advances to any hirer in an attempt to procure any special relationship with the hirer or make any suggestive remark that could be construed to be an attempt to gain a special relationship with the hirer.
- 5) Drivers, proprietors and operators are in a position where they are in close personal contact with vulnerable adults and children whether they are young, ill or under the influence of drugs or alcohol. Drivers must ensure that the hirer is taken to a place of safety and not taken advantage of in any way.
- 6) All drivers and operators (including existing licence holders) are required to attend safeguarding training sessions, as specified by the Council, in relation to their responsibilities that will enable them, in particular, to recognise what makes a person vulnerable, , to identify when a vulnerable person is in need of protection and when in need of being taken to a place of safety, and to report matters of concern to the relevant authorities. This training will also cover violence, sexual exploitation and human trafficking indicators, as well as awareness of county line exploitation.
- 7) A reasonable period of time will be given to ALL licence holders, including existing licence holders, to attend this required training. Licence holders who fail or refuse to attend the training will have their licences reviewed, which may result in the licence being suspended until they have attended the training session.

#### **5. Information Sharing and Partnership Working**

- 1) The Council will work within and facilitate the objectives of a Multiagency Safeguarding Hub (MASH), which is the sharing of necessary and relevant information between relevant stakeholders. This will ensure that decisions about licence holders and those applying for licences are made with the fullest knowledge possible and that the risk to children, vulnerable adults and the general public when using taxis and private hire vehicles is minimised.

- 2) Close links will be maintained with Heddliu Gwent Police and other agencies, including other Local Authorities, to ensure effective information sharing procedures and protocols are in place and are being used. Where it is identified that a licence holder presents a risk to the travelling public, Common Law Police Disclosure powers may be used or information shared under the provisions of the Crime and Disorder Act 1998.
- 3) Where a decision is made by the Council as a result of information received from the Police or other agency, the outcome will be fed-back to the relevant agency.
- 4) Where a decision is made by the Council to refuse or revoke a licence on public safety grounds, whether this is as a result of information received from Heddliu Gwent Police or not, Heddliu Gwent Police will be notified of the decision.
- 5) Where a decision is made by the Council to refuse or revoke a licence because the individual is thought to present a risk of harm to a child or vulnerable adult, referrals will be made to Heddliu Gwent Police, the Council's child protection lead and also the DBS as part of the Council's safeguarding role. This will be in cases where an individual:
  - a) Has harmed or poses a risk of harm to a child or vulnerable adult;
  - b) Has satisfied the 'harm test' such that they may harm a child or vulnerable adult or put them at risk of harm;
  - c) Has received a caution or conviction for a relevant offence; and
  - d) Has been, or might in future, working in a regulated activity.
- 6) The Council will use tools, including the National Register of Taxi Licence Refusals and Revocations (NR3), to share information on a consistent basis in order to mitigate the risk of non-disclosure of relevant information by applicants and licence holders. The Council's policy on its use of the NR3 register is set out in Appendix F.

## **6. Complaints about Licence Holders**

- 1) Users of licensed vehicles expect a prompt and reliable service, to be carried in the vehicle in safety, and treated courteously by the driver and/or booking office. They have the right to make complaints about the service they receive to the operator/proprietor and to the Council. Information for passengers and the general public about how to make a complaint to the Council about a licence holder or licensed vehicle is available on the Council's website. The Council will also engage with licensed operators to allow for the sharing of concerns about drivers and proprietors.
- 2) Where a complaint is received about a licence holder, the Council will discuss the matter directly with those affected and give the opportunity for an explanation to be provided prior to determining the appropriate course of action. This could include no further action, the offer of training, a formal review of the licence or formal enforcement action. Where more than one complaint about a licence holder is received within a short space of time, or of a similar nature, the Council will consider the complaints collectively when determining the course of action, even if the consideration of an earlier complaint resulted in no action.

- 3) The Council will maintain a robust system for recording complaints and will analyse trends across the licensed taxi trade as a whole, as well as complaints against individual licence holders. This will help to identify potential risks that an individual may pose and larger, emerging issues that can be mitigated through a revision to the policy and the conditions of a particular type of licence.

## **7. Enforcement Protocols**

- 1) Where it becomes apparent that either a number of vehicles licensed by the Council are undertaking the majority (i.e. over 50%) of work in another local authority area, or when it is evident that a number of vehicles licensed by another local authority are undertaking the majority of private hire work in the borough of Torfaen, the Council will endeavour to develop enforcement protocols with those local authorities. This will mitigate the opportunities for drivers to evade regulation.
- 2) In these circumstances, the authorisation of officers from other local authorities may be considered, and where such an approach is taken, the protocols described in the Local Government Association's 'Taxi and PHV Licensing: Councillor's handbook' will be followed.

## **SECTION 2**

### **HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE DRIVERS LICENCE**

Torfaen County Borough Council issues a combined licence authorising the holder to drive hackney carriages and private hire vehicles that are licensed by Torfaen County Borough Council. This licence does not authorise the holder to drive any vehicle licensed by any other council.

The licence is not transferrable, and is issued for 3 years unless a licensing panel determines otherwise in specific individual cases or the licence holder's right to work in the UK is time limited

**NB. TO DRIVE A LICENSED VEHICLE WITHOUT A VALID LICENCE IS UNLAWFUL, WHETHER IN A DOMESTIC CAPACITY OR FOR THE CARRIAGE OF PASSENGERS FOR HIRE AND REWARD**

#### **1. Applications**

Before a driver's licence is granted, applicants must:

- 1) Attend a skills and knowledge test including literacy, numeracy, safeguarding awareness and any other test currently or subsequently approved by the Council. On applying to renew a licence, the skills and knowledge test will not be required unless changes have been introduced to the standard of the test and/or areas covered.
- 2) Have completed and submitted to the Council an application on the form prescribed by the Council, together with a recent passport style photograph of themselves. No photocopies or persons wearing hats or sunglasses will be allowed. Applicants must write their name on the back of the photograph, unless it is submitted electronically
- 3) Submit, with the application, any fee that may be demanded by the Council for the issue of the licence or any other advertised fee, e.g. the cost of a criminal records check. If any payment has been made by cheque, which is subsequently dishonoured, the application or subsequent licence automatically becomes invalid for failure to comply with this condition. The fee is for the grant of the licence and is non-refundable once the Council has granted the licence. Should the applicant fail to take up the licence once granted, no part of the fee will be refundable to the applicant.
- 4) Be examined by a medical practitioner who has knowledge of the applicant with access to the applicant's medical records, e.g. by their own general practitioner, and provide a declaration completed by the medical practitioner on the Council's prescribed form stating that the applicant is fit to the current medical requirements approved by the Driver and Vehicle Licensing Agency for vocational drivers to level 2. The medical declaration must be dated no earlier than 4 calendar months before the date that the application for the licence is submitted to the Council.

The medical statement shall be renewed every 3 years on renewal of the licence. The medical certificate is available on the Council's website. An application for a new or to renew a licence will not be accepted without a current medical statement dated no earlier than 4 calendar months before the date that the application for the licence is submitted to the Council.

Regardless of whether such a certificate has been produced, the Council may require the applicant to undergo a medical examination by a Registered Medical Practitioner selected by the Council as to their fitness to be the driver of a hackney carriage or private hire vehicle.

- 5) Satisfy the Council that they are a fit and proper person to hold a combined hackney carriage and private hire drivers licence. This will include the disclosure of all criminal convictions, cautions and fixed penalties, including those for driving offences, and information about other licences they have held that have been issued by other local authorities and whether those licences have been suspended or revoked or applications for such licences refused. See the fitness criteria at Appendix C.
- 6) Agree to the Council applying to the Disclosure and Barring Service for an enhanced criminal record disclosure certificate, although this will not be required if the applicant already holds a certificate that meets the Council's requirements detailed below. The criminal records check will be a requirement before a new licence or a renewal is granted.

The application for a new licence or to renew an existing licence must be accompanied by an enhanced DBS certificate that is dated no earlier than 1 calendar month before the submission of the application to the Council, or if the applicant has a current subscription with the DBS update service, the certificate may be older than 1 month provided that there have been no changes to the DBS certificate since it was issued. The occupation stated on the certificate must be "Other Workforce – Taxi Licensing" (or such revised occupation as may be introduced by the DBS) and a check of the Adult's and Children's barred lists must have been carried out prior to the certificate being issued by the DBS. All drivers are strongly encouraged to sign up to the DBS Update Service on application for the next disclosure certificate.

In the event that the applicant has already furnished such information to the Council in respect of another licence within the month immediately preceding their application, this condition shall not apply, providing that the disclosure from the DBS is enhanced, it is for the correct position and the enquiry has requested details under the Education Act 2002, Protection of Children and Vulnerable Adults and other relevant information, and is less than 1 month old.

- 7) Where they have spent 6 or more continuous months living outside of the UK since their 10<sup>th</sup> birthday, submit a criminal records check from the country/countries visited or lived in to cover the period that they were overseas. This must be dated no earlier than 6 calendar months prior to the date that the application is submitted to the Council. Where a criminal record check is not obtainable from any particular country, the applicant shall provide a certificate of

good conduct issued by the relevant Embassy. The certificate may be of any age but must be issued after the period that the applicant lived in that country and it must be authenticated, translated and sealed by the relevant Embassy or High Commission.

- 8) Have attained the age of twenty-one years.
- 9) Be a person who has for the 12 months immediately prior to the date of the application, been the holder of a full driving licence issued by the DVLA, or the DVLNI (Northern Ireland), for that class of vehicle, granted under Part III of the Road Traffic Act, 1972 or Northern Ireland equivalent, authorising them to drive that class of vehicle.
- 10) Produce for examination a current driving licence issued to the applicant under the Road Traffic Act 1988, a relevant licence issued by the DVLA, DVLNI or EC/EEA Member State (GB counterpart if a licence is held by EC/EEA member state is required). This includes the photo card and counterpart where issued.

The photo card licence, or older paper licence issued prior to the requirement to have a photo card licence, are the only valid documents in the UK and are the licences required to be produced on all applications for hackney carriage and private hire driving licences.

The DVLA in the UK have withdrawn the counterparts to the photo card driving licence and they are no longer legal documents so are not required to be produced.

Under The Driving Licences (Community Driving Licence) Regulations 1996, a full driving licence issued by another EC/EEA state will count toward the grant of a licence if the holder has held such a licence for the previous 12 months.

- 11) Complete a DVLA Mandate for Release of Information form, allowing the Council access to records held on the applicant by the DVLA, or provide a DVLA access code to allow access to the applicant's driving record online. Licence holders will be required to submit a DVLA mandate, or DVLA access code, on renewal. The mandate permits the Council to check the applicant's driver's record at any time within 3 years from the date it is signed by the applicant and the DVLA access code permits a one-time check of their driving record
- 12) Applicants must acknowledge receipt of any HMRC guidance relating to tax compliance that the applicant is directed to by the Council and confirm that they are aware of the contents of that guidance. Any applicant applying to renew a licence after 04 April 2022, must complete a tax check and provide the Council with a valid tax check code.
- 13) Provide such other information as may be required by the Council and comply with such other condition as the Council may consider reasonably necessary.

## Note

Licences to drive Hackney Carriages & Private Hire Vehicles will normally be issued only to persons who are employed full time for that purpose. However, such licences may be issued to persons acting in a part time capacity, providing the applicant is not in full time employment as a driver in some other sphere of activity such as a bus or transport driver.

Any licensed Hackney Carriage or Private Hire Vehicle Driver must not accept employment in both capacities on the same day. (Any hours spent in employment, as a Hackney Carriage or Private Hire Vehicle Driver must not conflict with any statutory rest periods required by other transport legislation).



## 2. Conditions of licence

Drivers of licensed vehicles shall, at all times as appropriate;

- 1) not assign or in any way part with the benefit of the licence, which is personal to the licence holder
- 2) observe all legislation governing the use of vehicles on roads. This includes the use or misuse of the audible warning instrument (horn), which may only be used for emergencies as specified in the Highway Code, and must not be used as a means of alerting hirers of their presence.
- 3) comply with all reasonable requests made by authorised officers of the Council.
- 4) when outside of the borough of Torfaen, comply with all reasonable requests made by authorised officers of the Council for the district in which the driver is working.
- 5) comply with any conditions or requirements which are approved by the Council.
- 6) subscribe to the Disclosure and Barring Service (DBS) online update service at their own cost, maintain the subscription throughout the lifetime of the licence and give permission for the Council to undertake checks of their DBS status when the Council considers it necessary to do so throughout the lifetime of the licence. Alternatively, drivers who do not subscribe to the DBS update service or where a check of the update service reveals that there have been changes to the original DBS certificate submitted with the application for the licence, the driver shall submit an application for an enhanced DBS certificate to the Council with the necessary documentation to verify their identity and appropriate fee, at intervals of no less than 6 months, as may be directed by the Council.
- 7) attend required training as directed by the Council within a reasonable period that will be stated in the requirement.
- 8) act in a professional manner towards every person and not behave in a manner that would bring the private hire or hackney carriage trade into disrepute.
- 9) not drive when their ability to do so is impaired by tiredness or having worked excessive hours. The maximum daily driving time shall be 10 hours. Drivers must have a break lasting at least 30 minutes after driving for 5.5 hours and within any period of 8.5 hours, drivers must take at least 45 minutes in breaks. Drivers must also have a break of at least 30 minutes at the end this 8.5 hour period unless it's the end of the working day.
- 10) when the vehicle is available or being driven for hire, be clean and respectable in his/her dress (smart / casual, adhering to the Council's hackney carriage and private hire driver's dress code - see Appendix G) and person.

- 11) behave in an orderly manner and conduct himself with civility and propriety towards members of the public, enforcement officers (Police or Local Authority) and every person seeking to hire, or hiring or being conveyed in the vehicle, and shall comply with the Council's Hackney Carriage and Private Hire Driver's Code of Conduct (see Appendix H). The driver shall take all reasonable steps to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 12) communicate effectively with the customers to ensure that their requirements are fully understood.
- 13) ensure that any reasonable request for service made by the customer is provided.
- 14) ensure that any personal information obtained during the course of their business is stored securely, and only retained for as long as is absolutely necessary. Access to this information must be restricted to those that will use it for the purpose for which it has been collected. Personal information must not be used for any purpose other than that for which it was collected without the express permission of the individual to which the information relates. For example, telephone numbers provided by customers so that they can be alerted / updated by SMS text message with regard to a booking they have made must only be used for that purpose. The information must not be retained by the driver after the text message has been sent, and / or used for any other purpose (such as unsolicited marketing or other calls).
- 15) not engage in any sexual activity with customers, or make any advance or comment that could be construed to be an attempt to procure any special relationship, sexual or otherwise with the customer.
- 16) ensure that the hirer/passenger is cared for and must not knowingly put them any position that could put them in any physical or moral danger. Any suspicious behaviour or circumstances must be reported to a relevant authority, e.g. police, children's services or licensing officers.
- 17) comply with the Public Health (Wales) Act 2017, which prohibits smoking in any licensed vehicle and, in addition, will not use any electronic or other cigarette substitute whilst in any licenced vehicle.
- 18) keep the licensed vehicle to a high degree of cleanliness and shall carry out on a daily basis an inspection of the interior and exterior of the vehicle to ensure that the vehicle is suitable and safe for use as a licensed vehicle. The inspection should take place at the start of the working day prior to accepting any passengers. As a minimum this must be a visual check on all lights, oil, water, tyres, mirrors, access ramps (where applicable) and seat belts. A written record must be made of each safety check and details of faults and remedial action taken recorded. The record must be signed by the person undertaking the safety checks and kept in the vehicle for a minimum of 30 days and then for a further six months by the vehicle proprietor. The record must be available for inspection by an authorised officer of the Council on reasonable request. Any defects must be rectified by the driver or proprietor prior to the vehicle being used for hire or reward.

- 19) except with the express consent of the hirer, not drink or eat in the vehicle;
- 20) except with the express consent of the hirer, not play any radio or sound reproducing instrument in the vehicle other than for communicating with the operator.
- 21) not cause or permit the sound emitted by any radio equipment or sound reproducing equipment installed in the vehicle to be a source of nuisance or annoyance to persons whether inside or outside the vehicle.
- 22) when hired to drive to any particular destination, subject to any directions given by the hirer, proceed to that destination by the shortest, most direct, practicable route.
- 23) except with the express consent of the hirer, not convey any person other than the hirer in the vehicle.
- 24) when they have agreed or have been hired to be in attendance with a vehicle at an appointed time and place, unless delayed or prevented by some sufficient cause, punctually attend with the licensed vehicle at such appointed time and place.
- 25) where requested by the hirer;
  - a) convey a reasonable quantity of luggage.
  - b) afford reasonable assistance in loading and unloading.
  - c) afford reasonable assistance in removing luggage to or from the entrance of any building, station, house or place at which they may take up or set down such person.
- 26) not use a mobile phone whilst driving, unless they are able to do so by making use of a hands free kit. (There is an exemption in law for calls to 999 or 112 in a genuine emergency where it would be unsafe or impractical to stop).
- 27) not permit to be carried in a licensed vehicle, a greater number of passengers than the number prescribed in the licence. Passengers may not be carried unless they are seated in one of the seats approved on the licence, or a correctly fitted child seat if provided. A baby in arms counts as a passenger.
- 28) comply with the seat belt regulations of 1993 and 2006 and ensure that all passengers comply with the regulations. See Appendix A.
- 29) comply with all additional conditions for CCTV and Video Point of Impact systems (VPIS) that may be specified by the Council, when driving a vehicle fitted with a CCTV system or VPIS. See Appendix J.
- 30) notify immediately the operator or proprietor of any vehicle that they are driving, if the operator or proprietor has provided them with a fire extinguisher and the extinguisher is defective or has been discharged

- 31) notify the Council as soon as possible but in any event within one working day, if any licensed vehicle that they are driving is involved in an accident
- 32) only carry the same number of passengers as there are working seat belts. If necessary, additional cars or additional journeys should be used for the trip.
- 33) ensure that the Council's licence plates and doorsigns are permanently attached to the vehicle and shall not conceal from public view either the exterior identification plate or door signs of the vehicle or the details painted or marked thereon. The driver shall ensure that the identification plate and door signs are kept in a clean condition.
- 34) when driving a licensed vehicle, wear or display in a conspicuous position the drivers badge issued to the licence holder by the Council. Where a second badge or similar is issued by the Council, it shall be displayed within the vehicle as may be directed by the Council whilst working so that it is clearly visible to passengers.
- 35) request a duplicate badge immediately from the Council where the original is lost or stolen. If the original badge is later found, it shall be returned the Council immediately.
- 36) request a replacement badge from the Council at the earliest opportunity if they alter their appearance significantly (for example by growing / removing a beard or moustache, changing hair colour etc.) and shall provide an up to date photograph that is an accurate portrayal of their current appearance when making their request.
- 37) return the badge to the Council following receipt of a notice requesting its return due to the licence being suspended or revoked. The drivers badge shall remain the property of the Council. any licence that has been suspended must be returned to the Council immediately at the start of the suspension period. Any licence that has expired shall be returned to the Council within 5 working days of its expiry or such other time as may be specified by the Council.
- 38) notify the Council in writing of any change of his/her name and/or address or operator within 5 working days of such change taking place.
- 39) notify the DVLA of any change in their name/address within 5 working days of such change taking place and request a replacement DVLA driving licence which the driver shall produce to the Council within 5 working days of receipt of it from the issuing body.
- 40) notify the Council and provide within 48 hours, full details of any arrest and release (whether or not charged), and any subsequent conviction, binding over, caution, warning or reprimand for any criminal or motoring matter imposed on him / her during the period of the licence. The following matters shall be reported:
  - a) any conviction (criminal or motoring matter);
  - b) any caution (issued by the Police or any other agency);
  - c) issue of any Magistrate's Court summonses;
  - d) issue of any fixed penalty notice for any matter;

- e) any harassment or other form of warning or order within the criminal law including anti-social behaviour orders or similar;
  - f) arrest for any offence (whether or not charged);
  - g) any acquittal following a criminal case heard by a court; a
  - h) any refusal of any type of licence by any other regulatory authority or where any such licence is suspended, revoked or not renewed.
- 41) notify the Council in writing immediately of any medical condition or illness that may affect their fitness to drive, and must not continue to drive their licensed vehicle until the matter has been considered by the Council, and the Council has confirmed in writing that the driver is permitted to continue to drive.
- 42) at any time, or at such intervals as the Council may reasonably require, produce a medical certificate in the form prescribed by the Council that is signed by a medical practitioner who has knowledge of the applicant and with access to the applicant's medical records, e.g. by their own general practitioner, to the effect that the driver is or continues to be physically fit to be a driver of a licensed vehicle. This will include a medical each year on the anniversary of the grant of the licence after the licence holder has turned 65.
- 43) return any temporary medical exemption certificate that they are issued with under the Equality Act 2010, to the Council within one working day of the expiry of the certificate.
- 44) if requested by the hirer, provide him with a written receipt for the fare paid.
- 45) not demand of the hirer a sum in excess of that agreed between the hirer and the operator or, if the vehicle is fitted with a taxi meter and there has been no such agreement, a fare greater than that shown on the taxi meter. If a taxi meter is used, then the driver shall give the hirer opportunity to examine the fare shown at the termination of the journey and shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had a reasonable opportunity of scrutinising it and has paid the fare
- 46) where a credit/debit card payment device is fitted in the vehicle:
- a) at the start of a shift prior to accepting fare paying passengers, check that the device is in full working order, including the ability to print receipts,
  - b) where a device is faulty, report the matter to the operator of the vehicle (if there is one) prior to accepting any bookings and also to the proprietor of the vehicle (if the driver is not also proprietor) within 24 hours.
  - c) ensure that where the device is faulty, remove any card payment window stickers or other approved advertisements until it is in full operational order.
  - d) where there is a widespread network outage affecting card payments, advise passengers of this prior to accepting the fare.
- 47) upon the request of a police constable or authorised officer of the Council, provide the following information if requested;
- a) name
  - b) current address
  - c) date of birth
  - d) name and address of the vehicle operator, if different

- 48) produce for inspection their Hackney Carriage/Private Hire Vehicle Drivers Licence, DVLA Driving licence (or equivalent), Certificate of Insurance and if applicable Vehicle Test Certificate either forthwith or in any case before the expiration of 7 days beginning with the day following the date of the request
- a) in the case of a request by a police constable, at any police station within the Councils area and which is nominated by the constable when the request is made.
  - b) in the case of a request by an authorised officer, to the Council's appointed office for the Licensing Team or other such location that may be agreed.
  - c) remain at the scene for a sufficient period of time so as to allow the officer to obtain any details of their drivers licence and to carry out an inspection of the vehicle under the powers of the Local Government (Miscellaneous Provisions) Act 1976.
- 49) when conveying at their discretion an animal other than an assistance dog that is in the custody of the hirer of the vehicle, convey the animal in the rear of the vehicle.
- 50) as required by the Equality Act 2010, carry a guide dog or assistance dog belonging to a passenger free of charge and allow the dog to remain with the passenger, unless the driver has a proven medical condition confirmed in writing by a Medical Practitioner that would preclude such action and has been granted an exemption by the Council. (See Appendix I for the Council's policy on Equality Act Medical Exemptions.)
- 51) when driving a wheelchair accessible vehicle, ensure that before they first use the vehicle for hire or reward, they are able to correctly deploy the vehicle ramps and they understand how to transport the passenger in the wheelchair into and out of the vehicle and secure the wheelchair correctly. As required by the Equality Act 2010, the driver of a wheelchair accessible vehicle shall provide assistance to a wheelchair user in accessing the vehicle and shall carry the wheelchair user in the vehicle, whilst remaining in their wheelchair if they so wish, in a safe and secure manner with the appropriate use of the vehicles straps and seatbelts, unless the driver has a proven medical condition confirmed in writing by a Medical Practitioner that would preclude them from providing such assistance and has been granted an exemption by the Council. (See Appendix I for the Council's policy on Equality Act Medical Exemptions.)
- 52) immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the vehicle for any property left by passengers.
- 53) if any property is found in the vehicle, or be found by or handed to him, and not returned to the rightful owner, take it, as soon as possible and in any event within 24 hours, to a Police Station in the borough of Torfaen and leave it in the custody of the officer in charge. The driver must request a receipt for the property.

- 54) not, while driving or in charge of a private hire vehicle;
- a) tout for or solicit on a road or other public place any person to hire or be carried for hire in a Private Hire Vehicle;
  - b) cause or procure any other person to tout for or solicit on a road or other public place any person to hire or be carried for hire in a Private Hire Vehicle; or
  - c) accept an offer for the immediate hire of that vehicle while the licence holder of that vehicle is on a road or other public place, except where such offer is first communicated to the licence holder via a licensed operator by telephone or by apparatus for wireless telegraphy fitted to that vehicle.

In this condition:

- i) "Road" means any highway and other road to which the public has access and includes bridges over which a road passes.
- ii) This includes private areas where the public have access which include privately owned car parks e.g. supermarkets, railway stations and bus terminals.

### Notes

1. Applications for renewal of a licence should be made in advance to ensure continuity. There is no automatic period of grace. Those failing to renew their licence before the expiry of their existing licence will be required to complete a new application process before the licence is issued, unless there are exceptional circumstances.
2. Any change in circumstances, which include but is not limited to a medical condition or penalty points on a driving licence, breaches in legislation or policy, may result in the licence being reviewed. This may result in the licence being suspended or revoked. The policy and procedures are detailed in Determination of applications and Reviews of Existing Licences (Appendix B).

## **SECTION 3 PRIVATE HIRE OPERATORS**

Operator licences are issued to an individual(s) or a company for a period of 5 years, unless a licensing panel determines otherwise in specific cases or the licence holder's right to work in the UK is time limited, The licences are not transferrable.

### **1. Application for licences**

- 1) Applicants must complete the application form required by the Council, pay the appropriate fee, and provide any other reasonable information that may be requested by the Council, including the address of the premises from which the business will be carried on, which must be within the borough of Torfaen
- 2) Operators have to prove that they are a fit and proper person to hold such a licence. A current basic disclosure certificate issued by the Disclosure and Barring Service (DBS) must accompany any new or renewal application and they must provide information about any other licences they have held that have been issued by other local authorities and whether those licences have been suspended or revoked, or any application for a licence refused.
- 3) The DBS certificate must be dated no earlier than one calendar month before the application is submitted. For companies/organisations/partnerships, a basic DBS certificate is required from each director/partner. A licence will not be granted unless all required DBS certificates are produced at the time of application. If the operator is a driver licensed by the Council this section will not apply if the DBS certificate for the drivers licence is up to date.
- 4) All applicants (including directors of companies and partners in partnerships) who have spent 6 or more continuous months living outside of the UK since their 10th birthday must also submit a criminal records check from the country/countries visited or lived in to cover the period that they were overseas. This must be dated no earlier than 6 calendar months prior to the date that the application is submitted to the Council. Where a criminal record check is not obtainable from any particular country, the applicant shall provide a certificate of good conduct issued by the relevant Embassy. The certificate may be of any age but must be issued after the period that the applicant lived in that country and it must be authenticated, translated and sealed by the relevant Embassy or High Commission.
- 5) Applicants must acknowledge receipt of any HMRC guidance relating to tax compliance that the applicant is directed to by the Council and confirm that they are aware of the contents of that guidance. Any applicant applying to renew a licence after 04 April 2022, must complete a tax check and provide the Council with a valid tax check code.
- 6) Where the applicant will be employing members of staff, they must demonstrate that all staff who will have contact with the public and oversee the dispatching of vehicles do not pose a risk to the public. They must provide with their application for a new or to renew an existing licence, their policy on employing ex-offenders



in roles involving the taking of bookings or dispatch of vehicles. The policy must demonstrate that the Operator has protections in place that are comparable to the principles set out in the Council's Fitness Criteria policy (see Appendix C).

- 7) Persons who are declared bankrupt and have not been discharged are prohibited from running a business and therefore will not be granted an operator licence. Licence holders must notify the Council of any financial proceedings being taken against the company or individual(s).
- 8) The operator shall ensure that all his premises have (where planning legislation requires it) a valid planning permission authorising the carrying out of his business from the premises.
- 9) Operators must have a dedicated telephone line for bookings. This must be a fixed land line. A single owner-operator may also use a mobile telephone with the written agreement of the Council.

## **2. Licence conditions**

Private Hire Operators shall, at all times as appropriate:

- 1) comply with any conditions or requirements which are approved by the Council.
- 2) notify the Council in writing of any change of address (including home address, business address, registered office or booking office or any other address from which he operates or otherwise conducts business as an operator) during the period of the licence prior to the change taking place.
- 3) notify the Council in writing of any change in the directors of the operator's company, partners in the operator's partnership or ownership of the operation (where applicable) within 5 working days of the change occurring. This notification shall be accompanied by a basic DBS certificate for any new director, partner or owner and that certificate shall be dated no earlier than one calendar month before its submission to the Council.
- 4) notify the Council in writing if they will be absent from the day to day running of the business for a period of 2 or more consecutive months and provide the name of the person that will be responsible for the running of the business on their behalf during this temporary period. This notification shall be provided in advance of their absence unless it is due to circumstances beyond their control.
- 5) provide a basic DBS certificate to the Council each year on the anniversary of the grant of the licence for as long as the licence remains in effect and that DBS shall be dated no earlier than one calendar month before the date that it is submitted to the Council. For companies/organisations/partnerships, each director/partner shall provide a basic DBS certificate that is dated no earlier than one calendar month before its submission to the Council each year on the anniversary of the grant of the licence. However, if the operator/director/partner is a driver licensed by the Council, this section will not apply if the DBS certificate with the driver's licence is up to date.
- 6) provide a prompt efficient and reliable service to members of the public at all times.

- 7) without prejudice to the generality of the previous condition, the operator shall, in particular:
  - a) provide adequate information and communications, technology, facilities and staff, as appropriate for the level of operation of the business;
  - b) ensure the highest level of customer service and care;
  - c) ensure that when a private hire vehicle has been hired, to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place;
  - d) keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purposes of booking or waiting;
  - e) ensure that any waiting area provided by the operator has adequate toilet and seating facilities that are physically separate from any drivers resting area and the operations room;
  - f) display the private hire operator's licence in a prominent position at any premises from which the operator operates. Any personal details such as home address of the licence holder may be redacted from the display copy prior to it being displayed.
  - g) ensure that they have sufficient public liability insurance to cover visitors to their premises. The certificate of insurance must be clearly displayed at the premises.
  - h) ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.
  - i) provide a copy of these conditions to any member of the public on their request.
- 8) only dispatch a public service vehicle (PSV) driven by a driver who holds a PCV licence, but not a hackney carriage or private hire driver licence issued by the Council, to carry out a private hire booking (whether due to the number of passengers, the amount of luggage or otherwise), where the hirer has given their informed consent after having been made aware that the driver would have been subject to different checks than a hackney carriage or private hire driver which would not include an enhanced DBS check. Confirmation of the hirer's consent shall be recorded in the booking register.
- 9) not use, or facilitate the use of, any software, technology or other device that is capable of impeding the lawful activities of enforcement agencies or the regulatory activity of the Council.
- 10) comply with all reasonable requests made by authorised officers of the Council or Police Constables.

### **3. Vehicles**

The operator shall:

- 1) ensure that all vehicles he operates comply with all legislation;
- 2) immediately notify the Council of any damage to vehicles, howsoever occurring as soon as he becomes aware of such damage;
- 3) Ensure that all vehicles operated by him are roadworthy, clean and comply with the conditions of the Council's policy and all relevant legislation, in particular; the Road Traffic Act 1988, and the Road Vehicles Construction and Use Regulations 1986 (as amended).
- 4) notify the Council in writing of the operation of any additional private hire vehicle, or termination of the operation of any private hire vehicle within 3 working days;
- 5) ensure that every private hire vehicle is covered by a valid Certificate of Insurance or cover note. The schedule must show that the proprietor of the said vehicle is insured for the carriage of passengers for hire or reward by pre-booking in accordance with Part VI of the Road Traffic Act 1988. Any other drivers of the vehicle must be shown as additional named drivers. Fleet policies are also accepted but the driver of any vehicle covered by a fleet policy must be made aware of policy's limitations and exclusions and must sign a record to confirm that they have been made aware of these. A copy of the signed record should be retained by the operator whilst the policy has effect and for a period of two months thereafter. The signed records shall be made available for inspection by an authorised officer of the Council on request;
- 6) ensure that all licensed vehicles working for their company have the correct signage fully complying with the conditions set by the Council.

### **4. Staff**

The operator shall:

- 1) ensure that all drivers are licensed by the Council and shall
  - a) at all times retain in his possession the licence issued by the Council of any driver engaged by him;
  - b) ensure that such driver is in possession, at all times, of his driver's badge issued by the Council; and
  - c) ensure as far as is reasonably practicable that drivers do not work excessively long hours. Drivers should not be permitted to drive for more than 10 hours per day and must have a break lasting at least 30 minutes after driving for 5.5 hours. Within any period of 8.5 hours, drivers must take at least 45 minutes in breaks. Drivers must also have break of at least 30 minutes at the end this 8.5 hour period unless it is the end of the working day.
- 2) notify the Council in writing of the employment of a private hire driver and the termination of employment of any such driver within 3 working days.

- 3) where they employ members of staff,
- a) view a basic DBS certificate for each staff member that takes bookings or dispatches vehicles prior to them commencing employment and on an annual basis thereafter. Where a member of staff leaves their employment and subsequently returns, they shall be required to produce a new basic DBS certificate prior to commencing employment. In all cases, the DBS certificate shall be dated no earlier than one calendar month before the date that it is viewed by the operator.
  - b) maintain a register in to which they shall enter:
    - i) the name of each member of staff that takes bookings or dispatches vehicles,
    - ii) the dates that the staff member commenced employment and ceased employment,
    - iii) each date that the operator viewed each member of staff's basic DBS certificates; and
    - iv) the name of the person that viewed the DBS.

A name shall not be removed from the register until 12 months after the member of staff's employment has ended. The register shall be retained, or accessible if kept electronically, in the operator's operating base and made available for inspection by an authorised officer of the Council or a Police Constable on request.

- c) have a written policy on employing ex-offenders in roles involving the taking of bookings or dispatch of vehicles. The policy shall demonstrate that the operator has protections in place that are comparable to the principles set out in the Council's Fitness Criteria policy (see Appendix C). A copy of the operator's policy on employing ex-offenders shall be available at their operating base and shall be produced for inspection by an authorised officer of the Council or a Police Constable on request. A copy of the operator's policy shall be provided to an authorised officer of the Council or a Police Constable within 72 hours of their request.
- d) ensure all members of staff who work as a receptionist or who are involved in the booking or dispatch of vehicles are given training to ensure they are aware of the conditions imposed on the operator, and that they treat all customers with respect and deal with them in a professional manner. If there is any dispute with a caller, this must be recorded in the complaints record.
- e) require that all staff members employed in taking bookings or dispatching vehicles, report to them within 48 hours any conviction, binding over, caution, warning, reprimand or arrest for any criminal matter whilst they are employed in this role.

## **5. Required records**

The operator shall ensure that:

- 1) all records are kept securely to ensure personal data cannot be used by any unauthorised person or for any illegal purpose. The provisions of the relevant data protection legislation will apply to any stored personal data.
- 2) any loss of personal data by theft or otherwise is reported to the Council in writing within 24 hours and also, where appropriate, to the Information Commissioner's Office. Any theft of data must be reported to the Police.
- 3) all records kept by the operator are preserved for a period of not less than 12 months following the date of the last entry;
- 4) the above records are kept on a suitable computer with printout facilities, or a suitable book or ledger, the pages of which must be numbered consecutively.
- 5) all records are made available for inspection by any authorised officer of the Council or by any police constable.

## **6. Records of Hirings.**

When the operator accepts a hiring he shall immediately after accepting the hiring, enter all the details legibly in ink or other durable form in a bookings register maintained for this purpose. If a book is used, all entries must be clear, in English and easily legible, with no line spaces or blank pages. The register shall be retained, or accessible if kept electronically, at all times in the operator's operating base and made available for inspection by an authorised officer of the Council or a Police Constable on request. All entries shall be retained for a minimum of 12 months. The following particulars of every booking of a private hire vehicle invited or accepted by him shall be recorded in the bookings register

- a) the time and date of booking;
- b) the name and contact details of hirer (email address and/or phone number);
- c) the name of the person making the booking, if different to the hirer;
- d) how the booking was made (i.e. by telephone, in person or otherwise)
- e) the time and date of the pick-up;
- f) the point of pick-up (or first pick-up if more than one);
- g) the destination (as a minimum this should include the street and/or building name/number and postal area but where possible the postcode as well);
- h) the time the journey was completed

- i) identification of the vehicle/driver allocated for the booking, including name, driver licence number and vehicle registration or plate number;
- j) the agreed fare, if not calculated by means of a taxi meter in the allocated vehicle;
- k) the total cost of the completed journey paid by the hirer;
- l) the name of any individual that accepted the booking;
- m) the name of any individual that dispatched the vehicle;
- n) remarks (including details of any sub-contract or consent given by the hirer).

Any amendment to any record must only be by way of addition.

## **7. Records of Vehicles and Drivers**

The operator will keep records at his operating base of all drivers and vehicles that he operates by virtue of his licence and shall make the records available immediately on request by an authorised officer of the Council or a Police Constable. The records shall

- 1) show the following particulars with respect to each private hire vehicle operated by him:-
  - a. the registration number of each vehicle;
  - b. the number of the identification plate provided by the Council under Section 48(5) of the 1976 Act and the expiry date of the licence
  - c. the name and address of all the proprietors and drivers of the vehicle;
  - d. the number of passengers permitted to be carried in the vehicle;
  - e. any radio call sign used in connection with the vehicle;
  - f. the date on which he commenced operating the vehicle and if appropriate the date on which he ceased operating the vehicle;
  - g. details of the Certificate of Motor Insurance covering the vehicle, including the date the insurance expires;
  - h. details of the current vehicle test and the date the test expires.
  - i. remarks (if any).
- 2) show the following particulars with respect to each driver of the vehicles operated by him;
  - a. The name and address of the driver;
  - b. The DVLA driving licence number and expiry date

- c. The Council's hackney carriage and private hire driver licence number and expiry date;
- d. The date employment commenced;
- e. The date employment terminated

The operator must notify the Council of any change either by the addition or removal of any vehicle or driver in the above records, as soon as practicable or in any case within 48 hours of the change. Where a driver is dismissed the operator must notify the Council the reasons for the dismissal.

## **8. Incidents and complaints.**

The operator shall keep a record of all incidents that may give rise to complaints, complaints made against the operator or driver, and record all lost property reports and property found, and shall:

- 1) ensure that details of how a customer may contact the operator in the event of any complaint relating to a contract for hire or purported contract for hire relating to or arising from his business, are displayed on the operator's website, booking app or in the absence of online booking platform, at the booking office.
- 2) preserve all records for a period of not less than 12 months following the date of the last entry;
- 3) keep the records on a suitable computer with printout facilities in addition to or instead of a suitable book or ledger, the pages of which must be numbered consecutively;
- 4) make all records available for inspection by any authorised Officer of the Council or by any Police Constable;
- 5) on receipt of any complaint from a member of the public (whether received personally, on the telephone or in writing) relating to any one or more of the following
  - a) the operator's business premises;
  - b) his facilities within his premises;
  - c) the state or cleanliness of any of his vehicles or drivers;
  - d) the terms and conditions of any contract or purported contract of hire;
  - e) any other matter relating to any contract or purported contract for hire;
  - f) any other matter relating to his business

investigate the complaint with due diligence and notify the complainant in writing of the outcome of his investigations and any measures he proposes to take to remedy the complaint. The investigation of any complaint must be initiated within 48 hours of its receipt from the complainant.

- 6) notify the Council within 48 hours if they receive a complaint about the driver of a vehicle operated by them when it has been identified that the complaint relates to any of the following:
  - a) allegations of sexual misconduct (including the use of sexualised language)
  - b) racist behaviour
  - c) violence (including verbal aggression)
  - d) dishonesty including theft
  - e) equality breaches
  - f) any other serious misconduct (including motoring related for example dangerous driving or drink driving).
- 7) notify the complainant of his right to forward the complaint to the Council if the complaint is not resolved to his satisfaction but in the case of a licensed driver, the operator must notify the complainant immediately of their right to direct their complaint to the Council
- 8) enter the following particulars of every complaint received by him in the complaints book or ledger:
  - a) the date and time the complaint was received, and the name of the person receiving and recording the complaint
  - b) the name and address of the complainant;
  - c) how the complaint was made (i.e. personally by telephone or in writing);
  - d) Details of the complaint, including time and date of the alleged incident and the name of the alleged perpetrator;
  - e) the details of any relevant booking relating to the complaint;
  - f) remarks (if any);
  - g) any measures taken to remedy the complaint
  - h) if the complaint was referred to the Council, the time and date of when it was referred and by whom;
  - i) the date the complaint was resolved.



- 9) comply with all reasonable directions of an authorised officer or Police Constable investigating a complaint received by the Council.

## **9. Sub-Contracting Private Hire Bookings**

- 1) Operators are allowed to sub-contract bookings to other operators, both within the licensed area and outside of the Council's area. The operator may not, however, pass on the obligation to protect children and vulnerable adults when sub-contracting bookings.
- 2) The operator must keep a record of all such sub-contracts either to another operator or from another operator and that record must include the:
  - a) date/time of booking
  - b) details of booking,
  - c) name of hirer
  - d) details of operator sub-contract to/from
  - e) details of the driver/car completing the hiring

The records shall be retained for no less than 12 months and made available to an authorised officer of the Council or Police Constable on request.

- 3) For any company that the operator intends to sub-contract to, the operator must obtain evidence that the company has comparable protections to their own in place for children and vulnerable adults. This must include evidence of criminal record checks on members of staff involved in the booking and dispatch of vehicles and that a policy is in place for the employment of ex-offenders with comparable principles to those set out in the Council's Fitness Criteria policy. This evidence shall be retained with the records of sub-contracted bookings for no less than 12 months and shall be made available to an authorised officer of the Council or Police Constable on request.

## **10. Ride Sharing/Car-pooling**

If the operator offers any ride sharing/car-pooling schemes, they shall:

- 1) at the time of accepting a booking make individual hirers aware of the fact that the booking is part of a ride sharing/car-pooling scheme and require their explicit consent to being part of the scheme. The booking should be identified as a ride sharing/car-pooling scheme booking in the bookings register and a record of the hirer's consent shall be recorded under 'remarks' for that booking.
- 2) offer the option to hirers to only share with other passengers of the same sex. If a hirer selects this option, passengers of the opposite sex may not be added to the same booking. Any such request by a hirer shall be recorded in bookings register under 'remarks' for that booking, along with the confirmation that they consented to part of the ride sharing/car-pooling scheme.

## **11. Convictions**

The operator (or where the operator is a company or partnership, the Secretary or any of the Directors or Partners) shall, during the period of the licence, disclose to the Council in writing, within 48 hours, details of his:

- a) arrest and release,
- b) charge,
- c) summons,
- d) acquittal following a criminal case heard by a court,
- e) convictions,
- f) binding overs,
- g) cautions,
- h) warnings,
- i) reprimands,
- j) orders within the criminal law (including antisocial behaviour orders or similar) and
- k) fixed penalties imposed on him

This may result in the review of the licence by the Council.

## **12. Advertising**

The operator shall not use any advertising or promotional material, letter heading or other stationery or business name which includes the words 'taxi' 'taksi' or 'cab' whether used in the singular or the plural, or in conjunction with another word or forming part of a word making up the said business name.

## **13. Premises**

- 1) If the premises are used for customers to visit to make bookings and wait for the journey, then they must provide a clean and comfortable waiting area with access to toilet facilities that are kept clean.
- 2) The Public Health (Wales) Act 2017 designates any substantially enclosed premises that are open to the public or a workplace as smoke free. Therefore, smoking is not permitted in any operator's premises.

## **14. Taxi meters**

The operator must ensure that all vehicles operated by him, which are fitted with a taxi meter, have meters which have been sealed by an authorised calibration agent. The calibration certificate must be provided to the Council.

## **SECTION 4 PRIVATE HIRE VEHICLES**

### **1. Conditions of Application**

- 1) Before a Licence is issued in respect of a Private Hire Vehicle, the applicant being the proprietor of the vehicle, must;
  - a) Complete and submit to the Council an application on the form prescribed and supplied by the Council.
  - b) Submit the appropriate fee together with the vehicle's V5 Registration Document or Bill of Sale, valid Certificate of Insurance covering Hire & Reward by pre-booking and where required a valid Test certificate for the vehicle. Applicants must also provide information about other licences they have held that have been issued by other local authorities and whether those licences have been suspended or revoked or any application for a licence refused.
  - c) Submit a basic DBS certificate issued by the Disclosure and Barring Service (DBS) to accompany any new or renewal application. This must be dated no earlier than one calendar month before the application is submitted to the Council. For companies/organisations/partnerships that apply for a vehicle licence, a basic DBS certificate is required from each director/partner. A licence will not be granted unless all required DBS certificates are produced at the time of application. However, if the applicants are drivers licensed by the Council, the requirement to provide a basic DBS certificate will not apply if the DBS certificate provided with the drivers licence is up to date. Additionally, where an applicant is not a driver licensed by the Council, but they already hold a vehicle licence or a private hire operator licence and have submitted a basic DBS certificate to the Council within the preceding 12 months, a further basic DBS certificate will not be required until 12 months after the date of issue of the last DBS certificate. A condition may be attached to any private hire vehicle licence that will require the submission of a basic DBS certificate at the appropriate time in these cases. The responsibility will lie with the applicant to advise the Council when submitting their application if they wish to rely on a DBS certificate that has already been provided to the Council.
  - d) All applicants (including directors of companies and partners in partnerships) who have spent 6 or more continuous months living outside of the UK since their 10th birthday must also submit a criminal records check from the country/countries visited or lived in to cover the period that they were overseas. This must be dated no earlier than 6 calendar months prior to the date that the application is submitted to the Council. Where a criminal record check is not obtainable from any particular country, the applicant shall provide a certificate of good conduct issued by the relevant Embassy. The certificate may be of any age but must be issued after the period that the applicant lived in that country and it must be authenticated, translated and sealed by the relevant Embassy or High Commission.

- e) The appropriate fee must be paid upon submission of the licence application, and is not refundable. If payment is made by cheque, which is subsequently dishonoured, the licence automatically becomes invalid for failure to comply with this condition until the fee is paid in full.
- 2) Applicants must satisfy the Council that:
- a) the vehicle is registered under the Vehicles (Excise) Act 1949 or the Vehicles (Excise) Act 1994, and any subsequent amendments thereto, and there is in force in relation to the use of the vehicle a policy of Insurance, which satisfies the requirements of Part IV of the Road Traffic Act 1988.
  - b) the vehicle is in a satisfactory and safe condition for the carriage of passengers. All vehicles will be required to be assessed by an authorised officer before an initial application is approved.
  - c) the vehicle has been presented for inspection at one of the Authority's appointed garages, unless less than one year old.
  - d) the vehicle is suitable in type, size and design as a Private Hire Vehicle and complies with the following requirements:
    - I. the vehicle must not be black or any colour that can be taken to be black or resemble a hackney carriage, e.g. a London TX cab.
    - II. be a car fitted with four road wheels, have at least four doors and be right hand drive
    - III. the vehicle is a saloon, estate, M.P.V. or minibus with 8 passenger seats or less, and not be a large 4x4 type vehicle, e.g. Range Rover or Mitsubishi Shogun size vehicles, smaller 4x4's may be considered e.g. if they are derived from family saloon type vehicles.
  - e) Any stretched limousine meets additional conditions that are published separately within this policy.
  - f) the vehicle has adequate seating capacity and head and knee room etc. as detailed in technical standards below.
  - g) the vehicle is so constructed and the doors open sufficiently wide as to allow easy access to and egress from the vehicle and cause no inconvenience to passengers.
  - h) in the case of a vehicle that carries more than 4 passengers, no seat should be required to be moved to allow any passenger to enter or egress the vehicle.
  - i) vehicles that have 3 rows of seats, e.g. people carriers, where seats have to be tilted or moved to give access to the rear row of seats, one of the seats in the middle row has been removed to allow unimpeded access to the rear seats.

- j) any seat removed to facilitate entry as per i) above has had the mounting secured to prevent the seat from being easily re-fitted into the vehicle.
- k) where access to the rear seats is made through a gap between the seats in the middle row the gap is a minimum of 30 cm to allow clear access to the rear seats.

### 3) Technical Standards

Before being licensed, a vehicle must meet the technical standards of either;

- I. A European Whole Vehicle Type approval
- II. A British National Type Approval or
- III. A British Single Vehicle Approval pre 31st December 2009
- IV. A British Individual Vehicle Approval from 1st January 2010

**PLEASE NOTE:** only vehicles in category M1 or M2, passenger carrying vehicles, will be licensed by the Council. Vehicles in category N1 or N2, goods vehicles that have been converted will not be licensed unless an Individual Vehicle Approval to M1 or M2 has been issued by the DVSA.

The following technical standards will apply.

- a) **Height (Inside)** - from the top of the seat cushions to the roof at the lowest part must not be less than 81.3 cms (32 inches).
- b) **Knee Space** - the measurement between the back support cushion of the seat and the rear of the seat in front, and in the case of all front seats from the back support cushion of the seat to the console or any part of the vehicle immediately in front of the seat, must not be less than or 68.5 cms (27 inches).
- c) For the purposes of this condition, the back of the seat will be the point at which the front of the backrest on the vertical axis meets the seat cushion on the horizontal access, and will be measured from the outermost point of seat cushion.
- d) This measurement will not apply to the middle, rear seat where a centre console between the two front seats protrudes beyond the rear of the front seats. The discretion of the Licensing Officer will be used to assess the suitability of the knee space available to fare paying passengers.
- e) **Seat (Width)** - the width of the back seat from the back support cushion to the front edge must not be less than 45.7 cms (18 inches).
- f) Where the vehicle is purpose built, the discretion of the Licensing Officer will be used to assess the suitability of the seat width available to fare paying passengers, giving due regard to the specialist nature of the vehicle.
- g) **Rear Seat (Length)** - the length of the rear seat measured in a straight line, lengthwise on the front of the seat, must be such as will allow adequate sitting accommodation to the extent of at least 40.6 cms (16 inches) per person.

## 2. Vehicle Age Restriction

The age of the vehicle will be determined primarily by its date of first registration or, if imported, by the date of manufacture.

- 1) **New vehicle licences** will only be granted on vehicles that are less than 5 years old.
- 2) **Transfer of vehicle licences.** A current vehicle licence (including the vehicle to which it relates) may be transferred to another person on written authority of the existing licence holder. If the vehicle is older than 8 years, the licence will not be transferred.
- 3) **Replacement vehicles.** An existing vehicle licence holder may change the vehicle on that licence if the replacement vehicle is less than 5 years old, or is less than 8 years old if currently licensed by Torfaen County Borough Council.
- 4) **Vehicles previously licensed** by Torfaen County Borough Council that have been undergoing repair, e.g. following an accident, and which have not been used for any other purpose whilst unlicensed, may be replaced on the original vehicle licence by the original licence holder.
- 5) **Vehicles older than 8 years** may be re-licensed, on merit, at the discretion of the licensing officer, i.e. the vehicle is in very good condition and the interior and exterior condition of the vehicle is of a high standard.
- 6) **Vehicles older than 10 years** will not be re-licensed other than in exceptional circumstances, at the discretion of the licensing officer, e.g. if they are specialist, fitted with a mechanical tail lift, stretched limousines and historic vehicles. The vehicle must be in very good condition, the interior and exterior condition of the vehicle must be of a high standard.

## 3. Wheels and Tyres

Recent advances in technology have brought into question the use of spare wheels and puncture repairs. The devices known to be available at this time include run flat tyres, self-inflation aerosols, self-seal tyres and space-saver wheels.

The Council is not in favour of these devices, although they are not currently unlawful. If used, they must comply with any legal requirements and the manufacturer's instructions. They should only be used in an emergency, and the vehicle should not be used to carry passengers until a replacement wheel is fitted or a repair is completed by a qualified tyre fitter.

## 4. Passenger Seating Capacity

The vehicle must be of sufficient seating capacity to carry at least four, and not more than eight passengers, in addition to the driver. The seating capacity shall be determined in accordance with paragraphs (i) (a) and (i) (b) and paragraph (ii) of Regulation 42 of the Road Vehicles (Registration & Licensing) Regulations 1971.

## **5. Estate Cars, Multi-Purpose Vehicles & People Carriers**

If the vehicle is an Estate Car or a Multi-Purpose Vehicle as described on the Vehicle Registration Document (V5), it must be fitted with a grille or a similar device sufficient to prevent luggage carried in the rear compartment from coming into contact with persons in the rear seat.

## **6. Vehicle Identification**

All licensed vehicles must have all required signs displayed on the vehicle as follows:

- 1) The identification plate and door signs issued by the Council must be permanently fixed to the vehicle, kept in good condition and clearly visible at all times.
- 2) All above required signs must be securely fixed onto the vehicle by one of the Council's approved garages. The plate must be fixed using rivets, or indirectly by means of the bracket which can be purchased separately and the doorsigns must be permanently fixed to the vehicle. Removable signs, e.g. magnetic, are not permitted.
- 3) Private Hire Vehicles must display the name of the operator on both sides of the vehicle in letters not less than 15 cm tall. The registered telephone number of the operator must be displayed clearly on the vehicle. Signs must be fixed to the vehicle using a permanent fixing e.g. adhesive. Removable signs, e.g. magnetic, are not permitted. Window signs alone are not acceptable.
- 4) Private hire vehicles must display, as may be directed by the Council, any signage that may be provided by the Council giving passengers information about ways to make a complaint.
- 5) Private hire vehicles shall not display any roof sign.
- 6) Private hire vehicles shall not display any other sign or notice which consists of the word "taxi" "taxis" or "cab" whether in singular or plural.
- 7) Vehicles may display writing which advertises the services that the vehicle offers, e.g. Wheelchair accessible, airport transport etc. These signs shall not be so large as to obscure or detract from the required signs.
- 8) No other signs will be permitted to be displayed anywhere on the vehicle without the written approval of a licensing officer. This approval will not normally be granted, unless there are exceptional circumstances.
- 9) The external licence plates and door signs shall remain the property of the Council, and must be returned to them within seven days after service on the proprietor of an appropriate notice by an authorised officer of the Council.
- 10) The door signs issued by the Council must be fixed to the rear passenger doors on both sides of the vehicle by means of the adhesive backing on the door sign by the Council's approved garage.

- 11) The proprietor and driver of the private hire vehicle shall ensure the identification plates and door signs are maintained and kept in such condition that the information contained on the plate is clearly visible to public view at all times
- 12) A licensed vehicle must display the plates issued by the Council at all times (Section 48 LG(MP)A).
- 13) On revocation or expiry of the vehicle licence, the plates must be returned to the Council within 7 days (Section 58 LG(MP)Act), unless a suspension notice has been issued.
- 14) It is an offence to transfer a plate without prior consultation with the Licensing Section.
- 15) Any authorised officer of the Council or Police Constable is entitled to remove and retain the said plate, or to require the plate to be returned. Anyone not returning a plate to the Licensing Section when requested to do so could be liable to prosecution and a charge for the plate may be taken against that person.
- 16) The loss or damage of a plate must be reported immediately to the Council.

## **7. Specialist vehicles exemption**

On written application, the Council may exempt certain specialist vehicles from the need to display external plates, door signs and operator identification This will only be considered:

- 1) where the vehicle is a recognised luxury vehicle, e.g. Jaguar, Mercedes, and in some instances luxury large people carriers, e.g. Chrysler Voyager, and
- 2) the vehicle is not used on day to day hire business and is only used for specialist contract work or airport transfer.

In these cases the Council will provide a small windscreen sign and internal plate which must be fixed as directed by the Council.

## **8. Inspection and Fitness of the Vehicle**

- 1) All vehicles must reach the standard required by the Council, which is higher than the standard MOT. The Council holds a certificate of compliance granted by V.O.S.A. and has approved garages that must be used for the inspection of vehicles.
- 2) Section 50 (LG (MP) Act 1976) provides that a District Council can require a proprietor to present the same Hackney Carriage or Private Hire Vehicle for inspection and testing for a minimum of one test up to a maximum of three separate tests during any one period of twelve months.
- 3) A certificate of exemption is issued by the testing station and is valid for the period specified in the table below from the date of the test, or the anniversary of the previous test if the test is done within a month prior to the expiry of the previous test.



- 4) Vehicles which are less than 12 months from their date of first registration will not require testing.
- 5) All vehicles over 1 year from their date of first registration must be tested at Council approved garages, which are Driver and Vehicle Standards Agency (DVSA) approved for vehicle inspection, at intervals specified in the table below;

<b>Vehicle Age</b>	<b>Testing Schedule</b>	<b>Test Exemption Certificate Duration</b>
0 -1 year	No test required	N/A
Over 1 year and under 8 years.	2 tests per year	6 months
8 years and over	3 tests per year	4 months

- 6) The number of tests required will be determined by the age of the vehicle at the time the licence is renewed, even if the vehicle subsequently reaches a different age category within the term of the licence.
- 7) The licence holder will be required to pay for the appropriate number of tests, and the cost of any additional tests or failures will be the responsibility of the vehicle's proprietor.
- 8) All vehicles must be tested in accordance with the standards required by the testing facility authorised by the Authority. A valid exemption certificate issued by the testing station will be required to support any application for a licence.
- 9) All vehicles must be presented at the garage in a thoroughly clean condition, inside and out.
- 10) The proprietor shall permit an authorised officer of the Council or a Police Constable to inspect and test a vehicle at all reasonable times.
- 11) If the officer is not satisfied as to the fitness or condition of the Private Hire Vehicle, they shall give notice in writing to the proprietor suspending the vehicle licence, and giving instructions to make the vehicle available for further inspection and testing at such reasonable time and place as specified in the notice.
- 12) Where a vehicle licence is suspended, it will be until such times as the officer is so satisfied that the fitness or condition of the vehicle is satisfactory.
- 13) If the officer is not so satisfied before the expiration of a period of two months from the date of the notice, the licence shall be revoked.
- 14) The proprietor may appeal against the Council's decision under this section under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976

- 15) A vehicle that has failed the vehicle inspection test must be submitted for a re-test on the defects found, to the vehicle examiner approved and appointed by the Council, within 10 working days from the date of the test. The vehicle must not be used for hire during the interim period.

## 9. Certificate as to fitness of Vehicle / Exemption

- 1) The Authority is the holder of a Certificate of Exemption issued under regulation 6 (4) of the Motor Vehicles (tests) Regulations 1991, and therefore licensed vehicles are exempt from the requirement to possess an MoT certificate.
- 2) This exemption is only available when the vehicle has a current licence issued by the Council, and the vehicle must be registered with the DVLA as exempt. Certificates issued on behalf of the Council are not a substitute for an M.O.T. Certificate and, in particular, cease to be relevant once the vehicle is not licensed.
- 3) In order to register a vehicle with the DVLA as exempt from the requirement to hold an MoT certificate, the V112 Declaration of exemption from MoT testing issued by the DVLA should be completed. This form can only be submitted when taxing the vehicle.
- 4) If licence holders are requested by the police to produce an MoT certificate, the certificate and licence issued by the Council should be produced instead.

**N.B. Once the Council licence has expired, is suspended, revoked or cancelled the vehicle reverts to the status of an ordinary private car and the normal traffic laws apply.**

## 10. Fire Extinguishers and First Aid Kits

- 1) The Council does not recommend that untrained people try to extinguish a fire, but must instead ensure that the vehicle is evacuated, the area around the vehicle cleared to a safe distance, and the fire service is called to tackle the fire. Personal safety is a priority over minimising damage to the vehicle.
- 2) It is no longer a requirement of the Council's policy to carry fire extinguishers in licensed vehicles. However, if a fire extinguisher is carried in a vehicle, it must comply with the following criteria to ensure it is safe for use.
  - a) Any extinguisher must be a 1 kg minimum capacity dry powder or other suitable type extinguisher having a minimum ABC rating as defined in BSEN 3 British Standard for portable fire extinguishers.
  - b) Any fire extinguishers must be serviced and tested as required by the latest fire safety regulations by a competent engineer and should only be used by a competent operator.
- 3) First aid kits must be carried in all licensed vehicles, and these must conform to the standards and contain items listed in Schedule 7 of the Road Vehicles (Construction and Use) Regulations 1986. The first aid kit must not carry such

items, namely; aspirin or other tablets or creams, tourniquets, iodine and sal volatile. The first aid kit should be protected against contamination and the kit should contain at least the following:-

- a) ten antiseptic wipes, foil packed;
  - b) one conforming disposable bandage (not less than 7.5cm wide)
  - c) two triangular bandages
  - d) one packet of 24 assorted adhesive dressings;
  - e) three large sterile un-medicated ambulance dressings (not less than 15.0cm x 20.0cm);
  - f) two sterile eye pads, with attachments;
  - g) twelve assorted safety pins
  - h) one pair of rustless blunt-ended scissors; and
  - i) five pairs of sterile disposable gloves.
- 4) The first aid kit should be kept in the front of the cab or in the boot of the said vehicle and be readily accessible to the driver.
- 5) The first aid kit will have permanently printed on it the Council's private hire or hackney licence number of the vehicle for which it is used.

**PLEASE NOTE:**

- 6) The use / non-use of first aid kits by those other than a self-employed person upon himself is a matter of a private law nature and it is advised that other persons seek their own advice.
- 7) Self-employed drivers should be aware of the legal requirement of the need for first aid equipment within their vehicles, in order for them to render first aid upon themselves whilst at work, under the Health and Safety (First Aid) Regulations 1981 and that it is an offence under Section 33(1) of the Health and Safety at Work Act, 1974 not to do so.
- 8) Licensed drivers should be aware that they may incur liability in rendering first aid to others and are advised that, if in doubt, they should seek their own professional advice, which may include insurance issues.

**11. Type and Condition of Vehicle Licence**

The proprietor and driver shall observe and perform the following terms and conditions in respect of Private Hire Vehicle licences:

- 1) Within 48 hours of any arrest and release, and then after any subsequent conviction, binding over, caution, warning, reprimand or arrest for any criminal or motoring matter (whether or not charged) imposed on him / her during the period of the licence, notify the Council and provide full details of the matter(s). The following matters shall be reported:
  - a) any conviction (criminal or motoring matter);
  - b) any caution (issued by the Police or any other agency);

- c) issue of any Magistrate's Court summonses against you;
  - d) issue of any fixed penalty notice for any matter;
  - e) any harassment or other form of warning or order within the criminal law including anti-social behaviour orders or similar;
  - f) arrest for any offence (whether or not charged);
  - g) any acquittal following a criminal case heard by a court;
  - h) any refused of any type of licence by any other regulatory authority or any such licence is suspended, revoked or not renewed.
- 2) The written records of each safety check made by the driver of the vehicle and details of faults and remedial action taken that have been signed by the person undertaking the safety check and kept in the vehicle for a minimum of 30 days shall be retained by the proprietor for a further six months and made available for inspection by an authorised officer of the Council on reasonable request.
  - 3) Any significant alteration in the design of the vehicle whether to the machinery or to the body, shall be reported to the Council, who may require the proprietor to submit the vehicle for further examination, which will be at the proprietor's expense.
  - 4) Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction and Use) Regulations.
  - 5) They 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 the licence.
  - 6) Any radio/cassette/CD or other entertainment sound system fitted in the vehicle shall only be used with the consent of the hirer of the vehicle. When operated, the system shall not cause annoyance to other persons by reason of loud continuance or repeated use.
  - 7) The interior of all vehicles must be kept clean and hygienic and, if the interior is soiled, the vehicle must be taken out of service and cleaned before it is returned to service. It is the responsibility of the driver to ensure that the vehicle is clean before picking up the next passenger.
  - 8) The Public Health (Wales) Act 2017 prohibits smoking in enclosed places. All licensed vehicles are designated as an enclosed public space and, therefore, it is unlawful for any person to smoke in a licensed vehicle at any time, including any time when it is not being used for hire. Prescribed No Smoking signs must be displayed.

- 9) The exterior of the vehicle must be kept in good condition and any damage must be repaired to the original vehicle's standard. No vehicle may be used with damaged bodywork without the written approval of a licensing officer. The paintwork must be maintained in good condition, as if the vehicle was new, and the exterior of the vehicle must be kept clean at all times.
- 10) The proprietor who has agreed, or has been hired to be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at the appointed time and place.
- 11) The proprietor of the Private Hire Vehicle in respect of which a vehicle licence has been granted by the Council shall inform the Council in writing of any change of address as soon as is practicable and in any event within seven days.

The proprietor and driver of a designated wheelchair accessible vehicle shall observe the following additional conditions in respect of their wheelchair accessible vehicle:

- 1) The proprietor of a licensed wheelchair accessible vehicle must demonstrate to every driver of the vehicle how to assist a passenger in a wheelchair into and out of the vehicle and correctly secure the wheelchair in the vehicle. This will include showing the driver how to deploy the ramp(s) and how to use and adjust the restraints. The proprietor must keep a record of this demonstration and include the following:
  - a) The date of the demonstration
  - b) The name and licence number of the driver
  - c) A signed and dated acknowledgment by the driver that the demonstrating has taken place and he/she clearly understands how to transport a passenger in a wheelchair into the vehicle
- 2) The proprietor must retain this record for as long as the driver is using the vehicle and for 6 months thereafter. If the driver rents the vehicle again in future the proprietor must repeat the demonstration and record.
- 3) In the case that the proprietor is also the licensed driver of the vehicle, the proprietor shall record a signed acknowledgement to certify that he can perform the vehicle manufacturer's instructions on how to safely transport a wheelchair passenger into and out of the vehicle and how to secure the wheelchair.
- 4) These signed training records and signed acknowledgement shall be made available for inspection by an authorised officer of the Council within 48 hours of a request being made.

## **12. CCTV and Video Point of Impact Systems (VPIS)**

1. CCTV can provide a deterrence to those wishing to cause harm to passengers travelling in taxis and private hire vehicles or indeed the drivers of those vehicles. However, the Council does not consider it justifiable at this time to require the

installation of CCTV systems in all licensed vehicles. Proprietors and drivers are encouraged to install such systems within their vehicles for their and their passengers' safety but this is at their discretion. Where an internal CCTV system is installed in a private hire vehicle, it must meet or exceed the any specifications that may be set by the Council and any conditions relating to the system must be complied with.

2. The Council also recognises the benefit of video point of impact systems (external facing dash cams) and therefore permits the use of these systems in private hire vehicles. Where a VPIS system is installed in a private hire vehicle, it must meet or exceed the specifications set out in the Council's Video Point Of Impact System (VPIS) Policy And Conditions (see Appendix J). The conditions shall apply to the vehicle licence whilst the system is installed in the vehicle.

### **13. Transfer of Ownership**

Please also refer to point 2 above in respect of vehicle age restrictions.

- 1) Where a licensed vehicle is sold to another person who wishes to use it as a private hire vehicle, then the licence can be transferred to the new owner providing the vehicle is less than 8 years old.
- 2) The licence holder must give written authority to the Council authorising the transfer of his interest in the licence in order for any such transfer to take place.
- 3) The new proprietor must submit an application to transfer the licence to the Council and submit the following documents:
  - a) a valid Certificate of Insurance or Cover Note (original not a photocopy) in the name of the new owner.
  - b) the vehicle registration document or receipt of purchase.
  - c) vehicle test certificate (if required)
  - d) the required fee.
- 4) If everything is in order then a new licence can be issued. The expiry date of the new licence will be the same as the old licence.

### **14. Additional provisions**

- 1) In the event of a road traffic accident involving a private hire vehicle, and which causes damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein, the accident must be reported to the Council as soon as practicable and in any event within 2 working days.
- 2) The proprietor shall notify the Council as soon as reasonably practicable but in any event, within seven days, if the information supplied in his application for a Private Hire Vehicle licence is altered for any reason or manner, unless an alternative timescale for a particular notification is specified elsewhere in this policy

- 3) Before a vehicle licence can be issued, a current insurance certificate or cover note in the name of the proprietor for private hire use must be produced. (Section 48 LG(MP)Act).
- 4) On being so required by an authorised officer, the proprietor shall produce to that officer for examination a Certificate of Insurance issued by an approved Insurance company in respect of the vehicle for the purposes of Part VI of the Road Traffic Act, 1988, or a vehicle test certificate/exemption provided that if the proprietor fails to produce such a certificate to the officer on request, the proprietor shall within seven days of such request, produce it to that officer or to any authorised officer of the Council at the designated Council offices. (Section 50 LG(MP)Act).

## **SECTION 5**

### **ADDITIONAL CONDITIONS APPLIED TO STRETCHED LIMOUSINES AND NOVELTY VEHICLES USED AS PRIVATE HIRE VEHICLES**

- 1) These conditions made under the Local Government (Miscellaneous Provisions) Act 1976 are specific to vehicles adapted by lengthening the wheelbase of a standard, factory built vehicle, and vehicles converted from their original purpose to carry passengers e.g. Fire Engines.
- 2) The purpose of these conditions is to protect public safety. They apply in addition to the Authority's standard conditions for private hire vehicles, and take account the fact that stretched limousines and novelty vehicles will:
  - a) travel generally at slower speeds than normal taxis
  - b) not normally overtake other vehicles
  - c) be easily recognisable by the hirer
  - d) be heavier and considerably longer than standard cars
  - e) be adapted or converted by someone other than the original manufacturer.

#### **1. GENERAL**

These conditions apply to limousines and novelty vehicles as defined below, where the vehicle is constructed or adapted to seat up to 8 passengers not including the driver:

- I. A "stretched limousine", is a saloon type vehicle that has undergone an increase in length by extending the wheelbase after manufacture.
  - II. An "American stretched limousine" is a stretched limousine imported from the USA and typically will have been manufactured originally by Lincoln (Ford) or Cadillac.
  - III. A novelty vehicle is a vehicle adapted by someone other than the original manufacturer to change the original use of the vehicle to carry passengers.
- 1) For the purposes of calculating the seating capacity of a vehicle, the minimum width of a passenger seat is 400mm (16 inches). In the case of an 'L' shaped seat, sufficient space must be made available in the corner to prevent the passenger on one side of the corner encroaching on the passenger on the other side.
  - 2) Limousines and novelty vehicles not used for day to day private hire work will be exempted from the need to display plates and door signs on the outside of the vehicle, and alternative signs and plates will be provided and must be displayed inside of the vehicle as directed. They will also be exempted the age restriction, as long as the vehicle is kept in excellent condition both mechanically and in appearance.

#### **2. CONDITIONS**

- 1) In the case of a stretched limousine, or American stretched limousine, originals of the following documentation will be required by the Council before an initial application for a vehicle licence can be considered:



- a) Completed importation documentation where applicable and a Individual Vehicle Approval (IVA) from January 2010, or single vehicle approval (SVA) pre December 2009, for category M1 or M2 passenger carrying vehicles.
  - b) DVLA Registration Document (V5).
  - c) Valid Certificate of Insurance, with cover for hire and reward.
  - d) Current test certificate issued by a Council approved Testing Station.
  - e) Where applicable, an installation certificate from a Liquefied Petroleum Gas Association (LPGA) Approved UK Vehicle Conversion Company, in the case of vehicles converted to run on LPG.
  - f) Valid Road Vehicle Excise licence disc.
- 2) The vehicle shall comply with the following:
- a) The vehicle shall be tested every 6 months at a garage appointed by this Authority
  - b) Be equipped with a minimum of four road wheels and a full sized spare wheel.
  - c) Be equipped with tyres designed and manufactured to support the maximum permitted axle weight for the axle when the vehicle is driven at the maximum speed.
  - d) All seats shall be fitted with Seat belts, which must be fitted in accordance with the current Road Vehicle (Construction and Use) Regulations.
  - e) The maximum length of the stretch conversion (measured between the rear edge of the front door and the front edge of the rear door) shall not exceed 3048mm/120".
- 3) No person under the age of 18 years, being conveyed in a limousine or novelty vehicle, shall be allowed to consume alcohol. If alcohol is to be supplied to customers, a Premises Licence granted under the Licensing Act 2003 must be in place at the premises where the booking of the vehicle took place. It is an offence if alcohol is sold on or from a vehicle which is not permanently or temporarily parked.
- 4) Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction and Use) Regulations.
- 5) Children under the age of 16 years shall not be carried in a stretched limousine unless accompanied by the parent or guardian of at least one of the children.

## **SECTION 6 HACKNEY CARRIAGE VEHICLE CONDITIONS**

### **1. Quantity restrictions**

- 1) The Council does not limit the number of hackney carriage proprietor's licences that it issues.
- 2) New licences will only be granted to wheelchair accessible vehicles that comply with the conditions specified in the following section.
- 3) Licences that are issued to existing wheelchair accessible vehicles cannot be transferred to a vehicle that is not wheelchair accessible, but can be transferred to another wheelchair accessible vehicle.
- 4) Licences that are currently issued to other vehicles may replace the vehicle with either a wheelchair accessible vehicle or a non-wheelchair accessible vehicle.

### **2. Conditions of Application**

- 1) Before a Licence is issued in respect of a hackney carriage, the applicant being the proprietor of the vehicle, must;
  - a) Complete and submit to the Council an application on the form prescribed and supplied by the Council.
  - b) Submit the appropriate fee together with the vehicle's V5 Registration Document or Bill of Sale, a valid Certificate of Insurance covering Public Hire & Reward, a certificate confirming that the taximeter has been calibrated to the Council's current hackney carriage table of fares and where required a valid Test certificate for the vehicle. Applicants must also provide information about other licences they have held that have been issued by other local authorities, including whether any licence has been suspended or revoked and whether any application for a licence has been refused..
  - c) Submit a basic DBS certificate issued by the Disclosure and Barring Service (DBS) to accompany any new or renewal application. This must be dated no earlier than one calendar month before the application is submitted to the Council. For companies/organisations/partnerships that apply for a vehicle licence, a basic DBS certificate is required from each director/partner. A licence will not be granted unless all required DBS certificates are produced at the time of application. However, if the applicants are drivers licensed by the Council, the requirement to provide a basic DBS certificate will not apply if the DBS certificate provided with the drivers licence is up to date. Additionally, where an applicant is not a driver licensed by the Council, but they already hold a vehicle licence or operator licence and have submitted a basic DBS certificate to the Council within the preceding 12 months, a further basic DBS certificate will not be required until 12 months after the date of issue of the last DBS certificate. A condition may be attached to any hackney carriage vehicle licence that will require the submission of a basic DBS certificate at the appropriate time in these

cases. The responsibility will lie with the applicant to advise the Council when submitting their application if they wish to rely on a DBS certificate that has already been provided to the Council.

- d) All applicants (including directors of companies and partners in partnerships) who have spent 6 or more continuous months living outside of the UK since their 10th birthday must also submit a criminal records check from the country/countries visited or lived in to cover the period that they were overseas. This must be dated no earlier than 6 calendar months prior to the date that the application is submitted to the Council. Where a criminal record check is not obtainable from any particular country, the applicant shall provide a certificate of good conduct issued by the relevant Embassy. The certificate may be of any age but must be issued after the period that the applicant lived in that country and it must be authenticated, translated and sealed by the relevant Embassy or High Commission.
- e) The appropriate fee must be paid upon submission of the licence application, and is not refundable. If payment is made by cheque, which is subsequently dishonoured, the licence automatically becomes invalid for failure to comply with this condition until the fee is paid in full.

2) Applicants must Satisfy the Council that;

- a) the vehicle is black
- b) the vehicle is registered under the Vehicles (Excise) Act 1949 or the Vehicles (Excise) Act 1994, and any subsequent amendments thereto, and there is in force in relation to the use of the vehicle a policy of Insurance, which satisfies the requirements of Part IV of the Road Traffic Act 1988.
- c) the vehicle is in a satisfactory and safe condition for the carriage of passengers. All new vehicles will be required to be assessed by an authorised officer before an application is submitted.
- d) the vehicle has been presented for inspection at one of the Authority's appointed garages.
- e) The vehicle is suitable in type, size and design as a hackney carriage and complies with the following requirements;
  - I. be a car fitted with four road wheels, have at least four doors and be right hand drive
  - II. the vehicle is a saloon, estate, M.P.V. or minibus with 8 passenger seats or less, and not be a large 4x4 type vehicle, e.g. Range Rover or Mitsubishi Shogun size vehicles, smaller 4x4's may be considered e.g. if they are derived from family saloon type vehicles.
  - III. be of adequate seating capacity and head and knee room etc. as detailed in technical standards below.

- IV. the vehicle must be so constructed and the doors open sufficiently wide as to allow easy access to and egress from the vehicle and cause no inconvenience to passengers.
- V. in the case of a vehicle that carries more than 4 passengers no seat should be required to be moved to allow any passenger to enter or egress the vehicle.
- VI. vehicles that have 3 rows of seats, e.g. people carriers where seats have to be tilted or moved to give access to the rear row of seats will not be licensed unless one of the seats in the middle row is removed to allow unimpeded access to the rear seats.
- VII. the seat removed to facilitate entry as per VI. above must have the mounting secured to prevent the seat from being easily re-fitted into the vehicle.
- VIII. where access to the rear seats is made through a gap between the seats in the middle row, the gap must be a minimum of 30 cm to allow clear access to the rear seats.

### 3. Technical Standards

- 1) Before being licensed a vehicle must meet the technical standards of either;
  - a) A European Whole Vehicle Type approval
  - b) A British National Type Approval or
  - c) A British Single Vehicle Approval pre 31st December 2009
  - d) A British Individual Vehicle Approval from 1st January 2010

**PLEASE NOTE:** only vehicles in category M1 or M2, passenger carrying vehicles, will be licensed by the Council. Vehicles in category N1 or N2, goods vehicles that have been converted will not be licensed unless an Individual Vehicle Approval to M1 or M2 has been issued by DVSA.

- 2) **Height (Inside)** - From the top of the seat cushions to the roof at the lowest part must not be less than 81.3 cms (32 inches).
- 3) **Knee Space** - The measurement between the back support cushion of the seat and the rear of the seat in front, and in the case of all front seats from the back support cushion of the seat to the console or any part of the vehicle immediately in front of the seat must not be less than or 68.5 cms (27 inches).
  - a) For the purposes of this condition the back of the seat will be the point at which the front of the backrest on the vertical axis meets the seat cushion on the horizontal access, and will be measured from the outermost point of seat cushion.
  - b) This measurement will not apply to the middle, rear seat where a centre console between the two front seats protrudes beyond the rear of the front seats. The discretion of the Licensing Officer will be used to assess the suitability of the knee space available to fare paying passengers.

- 4) **Seat (Width)** - The width of the back seat from the back support cushion to the front edge must not be less than 45.7 cms (18 inches). Where the vehicle is purpose built, the discretion of the Licensing Officer will be used to assess the suitability of the seat width available to fare paying passengers, giving due regard to the specialist nature of the vehicle.
- 5) **Rear Seat (Length)** - The length of the rear seat measured in a straight line, lengthwise on the front of the seat must be such as will allow adequate sitting accommodation to the extent of at least 40.6 cms (16 inches) per person.

#### 4. Vehicle Age Restriction

The age of the vehicle will be determined primarily by its date of first registration or, if imported, the date of manufacture.

- 1) **New vehicle licences** will only be granted on vehicles that are less than 5 years old.
- 2) **Transfer of vehicle licences.** A current vehicle licence (including the vehicle to which it relates) may be transferred to another person on written authority of the existing licence holder. If the vehicle is older than 8 years the licence will not be transferred.
- 3) **Replacement vehicles.** An existing vehicle licence holder, may change the vehicle on that licence if the replacement vehicle is less than 5 years old, or less than 8 years old if currently licensed by Torfaen County Borough Council.
- 4) **Vehicles previously licensed** by Torfaen County Borough Council and that have been undergoing repair, e.g. following an accident, and not used for any other purpose whilst unlicensed, may be replaced on the original vehicle licence by the original licence holder.
- 5) **Vehicles older than 8 years** may be re-licensed on merit, at the discretion of the licensing officer, e.g. that the vehicle is in very good condition and the interior and exterior condition of the vehicle must be of a high standard.
- 7) **Vehicles older than 10 years** will not be re-licensed other than in exceptional circumstances, at the discretion of the licensing officer, e.g. if they are specialist, fitted with a mechanical tail lift, stretched limousines and historic vehicles. The vehicle must be in very good condition, the interior and exterior condition of the vehicle must be of a high standard.

#### 5. Wheels and Tyres

Recent advances in technology have brought into question the use of spare wheels and puncture repairs. The devices known to be available at this time include run flat tyres, self-inflation aerosols, self-seal tyres and space-saver wheels.

The Council is not in favour of these devices, although they are not currently unlawful. If used, they must comply with any legal requirements and the manufacturer's instructions. They should only be used in an emergency, and the vehicle should not be used to carry passengers until a replacement wheel is fitted or a repair is completed by a qualified tyre fitter.

## **6. Passenger Seating Capacity**

The vehicle must be of sufficient seating capacity to carry at least four and not more than eight passengers in addition to the driver. The seating capacity shall be determined in accordance with paragraphs (i) (a) and (i)(b) and paragraph (ii) of Regulation 42 of the Road Vehicles (Registration & Licensing) Regulations 1971.

## **7. Estate Cars, Multi-Purpose Vehicles & People Carriers**

If the vehicle is an Estate Car or a Multi-Purpose Vehicle, as described on the Vehicle Registration Document (V5), it must be fitted with a grille or a similar device sufficient to prevent luggage carried in the rear compartment from coming into contact with persons in the rear seat.

## **8. Vehicle Identification**

All licensed vehicles must have all required signs displayed on the vehicle as follows:

- 1) The identification plate and door signs issued by the Council must be permanently fixed to the vehicle, kept in good condition and clearly visible at all times.
- 2) All above required signs must be securely fixed onto the vehicle by one of the Council's approved garages. The plate must be fixed using rivets, or indirectly by means of the bracket which can be purchased separately and the doorsigns must be permanently fixed to the vehicle. Removable signs, e.g. magnetic, are not permitted.
- 3) All vehicles shall be fitted with a roof sign indicating on the front in letters of the same size either; "TAXI/TACSI FOR HIRE", "FOR HIRE" or "TAXI/TACSI". Any variation to this requirement will require the written authorisation of the Council.
- 4) All vehicles must display, as may be directed by the Council, any signage that may be provided by the Council giving passengers information about ways to make a complaint.
- 5) Vehicles may display writing which advertises the services that the vehicle offers, e.g. Wheelchair accessible, airport transport etc. These signs shall not be so large as to obscure or detract from the required signs.
- 6) No other signs will be permitted to be displayed anywhere on the vehicle without the written approval of a licensing officer. This approval will not normally be granted unless there are exceptional circumstances.
- 7) The external licence plates and door signs shall remain the property of the Council and must be returned to them within seven days after service on the proprietor of an appropriate notice by an authorised officer of the Council.
- 8) The door signs issued by the Council must be fixed to the rear passenger doors on both sides of the vehicle by means of the adhesive backing on the door sign by the Council's approved garage.

- 9) The proprietor and driver of the vehicle shall ensure the identification plates and door signs are maintained and kept in such condition that the information contained on the plate is clearly visible to public view at all times
- 10) A licensed vehicle must display the plate issued by the Council at all times (Section 48 LG (MP) Act).
- 11) On revocation or expiry of the vehicle licence, the plates must be returned to the Council within 7 days (Section 58 LG (MP) Act), unless a suspension notice has been issued.
- 12) It is an offence to transfer a plate without prior consultation with the Licensing Section.
- 13) Any authorised officer of the Council or Police Constable is entitled to remove and retain the said plate, or to require the plate to be returned. Anyone not returning a plate to the Licensing Section when requested to do so could be liable to prosecution and a charge for the plate may be taken against that person.
- 14) The loss or damage of a plate must be reported immediately to the Council.

## 9. Inspection and Fitness of the Vehicle

- 1) All vehicles must reach the standard required by the Council, which is higher than the standard MOT. The Council holds a certificate of compliance granted by V.O.S.A. and has approved garages that must be used for the inspection of vehicles.
- 2) Section 50 (LG (MP) Act 1976) provides that a District Council can require a proprietor to present the same Hackney Carriage or Private Hire Vehicle for inspection and testing for a minimum of one test up to a maximum of three separate tests during any one period of twelve months.
- 3) A certificate of exemption is issued by the testing station and is valid for the period specified in the table below from the date of the test, or the anniversary of the previous test if the test is done within a month prior to the expiry of the previous test.
- 4) Vehicles which are less than 12 months from their date of first registration will not require testing.
- 5) All vehicles over 1 year, from their date of first registration must be tested at Council approved garages, which are Vehicle and Operator Service Agency (VOSA) approved for vehicle inspection, at intervals specified in the table below;

Vehicle Age	Testing Schedule	Test Exemption Certificate Duration
0 -1 year	No test required	N/A
Over 1 year and under 8 years.	2 tests per year	6 months
8 years and over	3 tests per year	4 months

- 6) The number of tests required will be determined by the age of the vehicle at the time the licence is renewed, even if the vehicle subsequently reaches a higher age limit within the term of the licence.
- 7) The licence holder will be required to pay for the appropriate number of tests. The cost of any additional tests or failures will be the responsibility of the vehicle's proprietor.
- 8) All vehicles must be tested in accordance with the standards required by the testing facility authorised by the Council. A valid exemption certificate issued by the testing station will be required to support any application for a licence.
- 9) All vehicles must be presented at the garage in a thoroughly clean condition inside and out.
- 10) The proprietor shall permit an authorised officer of the Council or a Police Constable to inspect and test a vehicle at all reasonable times.
- 11) If the officer is not satisfied as to the fitness or condition of the hackney carriage vehicle, they shall give notice in writing to the proprietor suspending the vehicle licence, and giving instructions to make the vehicle available for further inspection and testing at such reasonable time and place as specified in the notice.
- 12) The vehicle licence being suspended until such times as the officer is so satisfied that the fitness or condition of the vehicle is satisfactory.
- 13) If the officer is not so satisfied before the expiration of a period of two months of the date of the notice, the licence shall be revoked.
- 14) The proprietor may appeal against the Council's decision under this section under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976
- 15) A vehicle, which has failed the vehicle inspection test, must be submitted for a re-test to the vehicle examiner approved and appointed by the Council on the defects found within 10 working days from the date of the test. The vehicle must not be used for hire during the interim period.

#### **10. Certificate as to fitness of Vehicle / Exemption**

- 1) The Authority is the holder of a Certificate of Exemption issued under regulation 6 (4) of the Motor Vehicles (tests) Regulations 1991, and therefore licensed vehicles are exempt from the requirement to possess an MoT certificate.
- 2) This exemption is only available when the vehicle has a current licence issued by the Council, and the vehicle must be registered with the DVLA as exempt. Certificates issued on behalf of the Council are not a substitute for an M.O.T. Certificate and, in particular, cease to be relevant once the vehicle is not licensed.



- 3) In order to register a vehicle with the DVLA as exempt from the requirement to hold an MoT certificate, the V112 Declaration of exemption from MoT testing issued by the DVLA should be completed. This form can only be submitted when taxing the vehicle.
- 4) If licence holders are requested by the police to produce an MoT certificate, the certificate and licence issued by the Council should be produced instead.

**N.B. Once the Council licence has expired, is suspended, revoked or cancelled the vehicle reverts to the status of an ordinary private car and the normal traffic laws apply.**

## **11. Fire Extinguishers and First Aid Kits**

- 1) The Council does not recommend that untrained people try to extinguish a fire, but must instead ensure that the vehicle is evacuated, the area around the vehicle cleared to a safe distance, and the fire service is called to tackle the fire. Personal safety is a priority over minimising damage to the vehicle.
- 2) It is no longer a requirement of the Council's policy to carry fire extinguishers in licensed vehicles. However, if a fire extinguisher is carried in a vehicle, it must comply with the following criteria to ensure it is safe for use.
  - a) Any extinguisher must be a 1 kg minimum capacity dry powder or other suitable type extinguisher having a minimum ABC rating as defined in BSEN 3 British Standard for portable fire extinguishers.
  - b) Any fire extinguishers must be serviced and tested as required by the latest fire safety regulations by a competent engineer and should only be used by a competent operator.
- 3) First aid kits must be carried in all licensed vehicles, and these must conform to the standards and contain items listed in Schedule 7 of the Road Vehicles (Construction and Use) Regulations 1986. The first aid kit must not carry such items, namely aspirin or other tablets or creams, tourniquets, iodine and sal volatile. The first aid kit should be protected against contamination and the kit should contain at least the following:-
  - a) ten antiseptic wipes, foil packed;
  - b) one conforming disposable bandage (not less than 7.5cm wide)
  - c) two triangular bandages
  - d) one packet of 24 assorted adhesive dressings;
  - e) three large sterile un-medicated ambulance dressings (not less than 15.0cm x 20.0cm);
  - f) two sterile eye pads, with attachments;
  - g) twelve assorted safety pins
  - h) one pair rustless blunt-ended scissors; and
  - i) five pairs of sterile disposable gloves.
- 4) The first aid kit should be kept in the front of the cab or in the boot of the said vehicle and be readily accessible to the driver.

- 5) The first aid kit will have permanently printed on it the Council's private hire or hackney licence number of the vehicle for which it is used.

**PLEASE NOTE:**

- 1) The use / non-use of first aid kits by those other than a self-employed person upon himself is a matter of a private law nature and it is advised that other persons seek their own advice.
- 2) Self-employed drivers should be aware of the legal requirement of the need for first aid equipment within their vehicles, in order for them to render first aid upon themselves whilst at work, under the Health and Safety (First Aid) Regulations 1981 and that it is an offence under Section 33(1) of the Health and Safety at Work Act, 1974 not to do so.
- 3) Licensed drivers should be aware that they may incur liability in rendering first aid to others and are advised that, if in doubt, they should seek their own professional advice, which may include insurance issues.

## **12. Type of Vehicle and Condition of Licence**

The proprietor and driver shall observe and perform the following terms and conditions in respect of Hackney Carriage Vehicle licences:

- 1) Within 48 hours of any arrest and release, and then after any subsequent conviction, binding over, caution, warning, reprimand or arrest for any criminal or motoring matter (whether or not charged) imposed on him / her during the period of the licence, notify the Council and provide full details of the matter(s). The following matters shall be reported:
  - a) any conviction (criminal or motoring matter);
  - b) any caution (issued by the Police or any other agency);
  - c) issue of any Magistrate's Court summonses against you;
  - d) issue of any fixed penalty notice for any matter;
  - e) any harassment or other form of warning or order within the criminal law including anti-social behaviour orders or similar;
  - f) arrest for any offence (whether or not charged);
  - g) any acquittal following a criminal case heard by a court;
  - h) any refused of any type of licence by any other regulatory authority or any such licence is suspended, revoked or not renewed.

- 2) Any significant alteration in the design of the vehicle whether to the machinery or to the body, shall be reported to the Council, who may require the proprietor to submit the vehicle for further examination, which will be at the proprietors expense.
- 3) Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction and Use) Regulations.
- 4) Vehicle proprietors and drivers 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 the licence.
- 5) Any radio/cassette/CD or other entertainment sound system fitted in the vehicle may only be used with the consent of the hirer of the vehicle. When operated the system shall not cause annoyance to other persons by reason of loud continuance or repeated use.
- 6) The interior of all vehicles must be kept clean and hygienic and, if the interior is soiled, the vehicle must be taken out of service and cleaned before it is returned to service. It is the responsibility of the driver to ensure that the vehicle is clean before picking up the next passenger.
- 7) The Public Health (Wales) Act 2017 prohibits smoking in enclosed places, all licensed vehicles are designated as an enclosed public space and therefore it is unlawful for any person to smoke in a licensed vehicle at any time, including any time when it is not being used for hire. Prescribed No Smoking signs must be displayed. The smoking of electronic cigarettes or similar is also prohibited in licenced vehicles.
- 8) The exterior of the vehicle must be kept in good condition and any damage must be repaired to the original vehicle's standard. No vehicle may be used with damaged bodywork without the written approval of a licensing officer. The paintwork must be maintained in good condition as if the vehicle was new and the exterior of the vehicle must be kept clean at all times.
- 9) The proprietor of the hackney carriage in respect of which a vehicle licence has been granted by the Council shall inform the Council in writing of any change of address as soon as is practicable and in any event within seven days.

The proprietor and driver of a designated wheelchair accessible vehicle shall observe the following additional conditions in respect of their wheelchair accessible vehicle:

- 1) The proprietor of a licensed wheelchair accessible vehicle must demonstrate to every driver of the vehicle how to assist a passenger in a wheelchair into and out of the vehicle and correctly secure the wheelchair in the vehicle. This will include showing the driver how to deploy the ramp(s) and how to use and adjust the restraints. The proprietor must keep a record of this demonstration and include the following:
  - a) The date of the demonstration

- b) The name and licence number of the driver
  - c) A signed and dated acknowledgment by the driver that the demonstrating has taken place and he/she clearly understands how to transport a passenger in a wheelchair into the vehicle
- 2) The proprietor must retain this record for as long as the driver is using the vehicle and for 6 months thereafter. If the driver rents the vehicle again in future the proprietor must repeat the demonstration and record.
  - 3) In the case that the proprietor is also the licensed driver of the vehicle, the proprietor shall record a signed acknowledgement to certify that he can perform the vehicle manufacturer's instructions on how to safely transport a wheelchair passenger into and out of the vehicle and how to secure the wheelchair.
  - 4) These signed training records and signed acknowledgement shall be made available for inspection by an authorised officer of the Council within 48 hours of a request being made

### **13. CCTV and Video Point of Impact Systems (VPIS)**

- 1) CCTV can provide a deterrence to those wishing to cause harm to passengers travelling in taxis and private hire vehicles or indeed the drivers of those vehicles. However, the Council does not consider it justifiable at this time to require the installation of CCTV systems in all licensed vehicles. Proprietors and drivers are encouraged to install such systems within their vehicles for their and their passengers' safety but this is at their discretion. Where an internal CCTV system is installed in a private hire vehicle, it must meet or exceed the any specifications that may be set by the Council and any conditions relating to the system must be complied with.
- 2) The Council also recognises the benefit of video point of impact systems (external facing dash cams) and therefore permits the use of these systems in hackney carriages. Where a VPIS system is installed in a hackney carriage, it must meet or exceed the specifications set out in the Council's Video Point Of Impact System (VPIS) Policy And Conditions (see Appendix J). The conditions shall apply to the vehicle licence whilst the system is installed in the vehicle.

### **14. Transfer of Ownership**

Please also refer to, vehicle age restriction at **4.** above.

- 1) Where a licensed vehicle is sold to another person who wishes to use it as a hackney carriage, they may transfer the licence to the new owner providing the vehicle is less than 8 years old.
- 2) The licence holder must give written authority to the Council authorising the transfer of his interest in the licence to take place.

- 3) The new proprietor must submit an application to transfer the licence to the Council and submit the following documents:
  - a) A valid Certificate of Insurance or Cover Note (original not a photocopy) in the name of the new owner.
  - b) The vehicle registration document or receipt of purchase.
  - c) Vehicle test certificate (if required)
  - d) The required fee.
- 4) If everything is in order then a new licence can be issued. The expiry date of the new licence will be the same as the old licence.

## **15. Additional provisions**

- 1) In the event of a road traffic accident involving a hackney carriage, which causes damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein, the accident must be reported to the Council as soon as practicable and in any event within 2 working days.
- 2) The proprietor shall notify the Council as soon as reasonably practicable but, in any event, within seven days, if the information supplied in his application for a hackney carriage licence is altered for any reason or manner, unless an alternative timescale for a particular notification is specified elsewhere in this policy
- 3) Before a vehicle licence can be issued a current certificate or cover note in the name of the proprietor for hackney carriage use must be produced. (Section 48 LG (MP) Act).
- 4) On being so required by an authorised officer, the proprietor shall produce to that officer for examination a Certificate of Insurance issued by an approved Insurance company in respect of the vehicle for the purposes of Part VI of the Road Traffic Act, 1988 or vehicle test certificate/exemption provided that if the proprietor fails to produce such a certificate to the officer on request, the proprietor shall within seven days of such request, produce it to that officer or to any authorised officer of the Council at the designated Council offices. (Section 50 LG (MP) Act).

## **16. Taxi Meter**

The hackney carriage vehicle must be provided with a taximeter that is so constructed, attached and maintained so as to comply with the following requirements, that is to say

- 1) The taximeter shall be fitted with an appropriate device bearing the words "FOR HIRE" on each side thereof in plain letters, at least two inches in height, of the appropriate device, so that the words are conveniently legible.
- 2) The taximeter shall not begin operation until the hirer's journey has commenced.

- 3) Prior to hiring, no fares shall be recorded on the face of the meter.
- 4) The taximeter must be programmed with the current tariff as approved by the Council and, when the taximeter is in action, there shall be recorded on the face of the meter, in clearly legible figures, a fare not exceeding the rate of fare which the proprietor or driver is so authorised to charge.
- 5) The word "FARE" or similar, shall be printed on the face of the taximeter in plain letters so as to clearly apply to the fare recorded thereon.
- 6) The taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring.
- 7) The taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them, except by breaking, damaging or permanently displacing the seals or other appliances.
- 8) The proprietor of a hackney carriage shall cause the current table of fares, fixed by the Council, to be exhibited inside the carriage in clearly distinguishable letters and figures, together with a notice displaying the limitations on the fare rates and charges to be made.
- 9) The proprietor 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 fitting thereof or with the seals affixed thereto.
- 10) Calibration certificates must be produced to the Council when issued.

## **17. Fares**

For every journey, the taxi meter must be engaged at the commencement of the journey and no more than is displayed on the meter at the end of the journey can be charged. The fare is negotiable with the hirer provided that, if no negotiation is entered into, no fare greater than that displayed on the meter can be charged. The meter must always be in use when carrying passengers. (Section 66 LG (MP) Act).

## **18. Retention of Drivers Licences**

A vehicle proprietor must retain in his possession, the paper counterpart of the driver licences issued by the Council, of all drivers driving his vehicle(s) (Section 48 TPCA).

## **19. Obstruction of Other Drivers**

It is an offence to wilfully obstruct the driver of another hackney carriage in setting down or picking up passengers or to prevent another driver from being hired (Section 64 TPCA)

## **20. Refusing to Drive**

It is an offence for a driver, whilst the hackney carriage is standing in any street, to refuse, without reasonable excuse, to drive to any point within the Torfaen County Borough Council area (Section 53 TPCA).

## **21. Hackney Carriage intended use policy**

### **1) Applications for the new grant of a hackney carriage licence**

Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within the borough of Torfaen, under the terms of the licence for which an application is being made.

There will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within the borough of Torfaen will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits.

Even where the applicant intends to ply for hire entirely or predominantly in the borough of Torfaen, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

### **2) Applications for the renewal of a hackney carriage licence**

Section 60 of Local Government (Miscellaneous Provisions) Act 1976 also gives the Council a broad discretion to refuse to renew a licence for any reasonable cause, and this intended use policy will also apply for renewals in the same way as for the grant of the licence. Each application will be decided on its merits.

### **3) Applications for the transfer of a hackney carriage licence**

Should the hackney carriage licence be transferred to another proprietor during the term of the licence, the new proprietor will be asked to inform the Council whether he has a bona fide intention to use the vehicle to ply for hire within the borough of Torfaen. New proprietors should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation. Where there is a failure to provide the requested information, the Council will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73.

New proprietors of licensed hackney carriages will be expected to have a bona fide intention to ply for hire within the borough of Torfaen under the terms of the licence issued in respect of the vehicle being transferred.

If the new proprietor of a licensed hackney carriage is found to have no intention to ply for hire entirely or predominantly within the borough of Torfaen and/or intends to trade

in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate remotely from the administrative area of Torfaen County Borough Council, there will be a presumption that his licence will be revoked. Each case will however be decided on its merits.

#### **4) Applications for the replacement of a hackney carriage licence**

When a proprietor replaces a licensed vehicle, applicants seeking the grant of hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Council of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire entirely or predominantly within the borough of Torfaen will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire entirely or predominantly in the borough of Torfaen, if the intention is also to trade in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

Where a licence has been granted under the terms that the applicant intends to ply for hire entirely or predominantly within the borough of Torfaen, but is subsequently found not to be plying for hire entirely or predominantly in the borough of Torfaen and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised), there will be a presumption that the licence will be revoked.

Each application will be decided on its merits. However the presumptions that intended use is to ply for hire entirely or predominantly within the borough of Torfaen will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not compromise the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

#### **5) Reasons for intended use Policy**

Torfaen County Borough Council wishes to ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment, and the Declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].

Unless there has been a change in the proprietor's intentions with regard to plying for hire within the administrative area of Torfaen County Borough Council, there should be no reason why he should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained the first licence on the expressed intention of plying for hire entirely or predominantly within the administrative area of Torfaen



County Borough Council, and who on application to replace that vehicle with another discloses that he no longer so intends, effectively engages the presumption against grant that is mentioned earlier.

## APPENDIX A - MOTOR VEHICLES, (WEARING OF SEAT BELTS) REGULATIONS 1993, AS AMENDED

Under these regulations, all occupants of a vehicle, as described, must wear a seat belt if provided.

Taxi drivers may claim exemption if plying for, or actually carrying passengers on hire, but this will not apply whilst driving to and from his home or office, (base), nor whilst not plying for hire. Private Hire Drivers may only claim exemption when a fare paying passenger is actually in the vehicle and not at any other time.

For safety, the Council recommends that seat belts are worn by all drivers at all times when driving a licensed vehicle.

### Summary of the Seat Belt Laws for Cars, Taxis and Private Hire Cars

Occupant	Front seat	Rear seat	Who is responsible?
Driver	Seat belt MUST be worn if available.		Driver
Children under 3 years old	Correct child restraint MUST be used.	Correct child restraint MUST be used  If one is not available in a taxi, then the child may travel unrestrained in the rear	Driver
Children aged 3 and above, until they reach EITHER their 12th birthday OR 135cm in height	Correct child restraint MUST be used	Where seat belts fitted, correct child restraint MUST be used  MUST use adult belt if the correct child restraint is not available in three scenarios:  - in a in a licensed taxi or private hire vehicle ; - for a short distance for reason of unexpected necessity; - two occupied child restraints prevent fitment of a third.  In addition, a child 3 and over may travel unrestrained in the rear seat of a vehicle if seat belts are not available	Driver
Child over 1.35 metres, or 12 to 13 years	Seat belt MUST be worn if available	Seat belt MUST be worn if available	Driver
Adult passengers (i.e. 14 years and over)	Seat belt MUST be worn if available	Seat belt MUST be worn if available	Passenger

## **More Passengers than Seat Belts**

If there are not enough seat belts or child restraints in the car for all the passengers, then some may legally travel in the rear of the vehicle without wearing a seat belt. This may be legal, but it is not safe. Between 8 and 15 front seat occupants are killed every year by unbelted rear seat passengers flying forward in an accident.

The safest option is to only carry the same number of passengers as there are seat belts. If necessary, use two cars or make two journeys for the trip.

If you must carry a passenger for whom there is no seat belt, it is better for the heaviest passengers to wear a seat belt, because they would cause more severe injuries to other people in the car if they are thrown about in a crash.

## **Legal Penalties**

The legal penalties are set out in the above legislation.

## **APPENDIX B - DETERMINING APPLICATIONS FOR LICENCES AND REVIEWS OF EXISTING LICENCES**

The Council may refuse to grant, suspend or revoke any licence issued to drivers, vehicles and operators if any condition of the Council's policy or relevant legislation is breached. The determination on the application or review will be made by the Licensing Committee, Licensing Panel or officers as provided for in the scheme of delegation published in the Council's constitution, which is available on the Council's website and précised in Appendix E.

Each case will be considered on its own merits and a clear separation between any investigator in the case and the decision maker will be maintained to ensure independence.

Any decision maker who has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved will be required to declare their interest at the earliest opportunity. This will be prior to any discussions or votes and, once declared, they will be required to leave the room for the duration of the discussion or vote.

All individuals that determine whether a licence is issued or refused shall be adequately resourced and shall undertake sufficient training to allow them to discharge the function effectively. As a minimum, the training for a Member of the Licensing Committee will include licensing procedures, natural justice, understanding the risks of child sexual abuse and exploitation (CSAE), disability and equality awareness and the making of difficult and potentially controversial decisions. Case study material will be used where appropriate to provide context and real-life scenarios. Records will be retained to evidence that appropriate training has been provided to decision-makers.

Public safety will be the paramount consideration when discharging licensing functions but the following general principles will also be applied:

- policies are internal guidance that are supported by a member/officer code of conduct.
- any implications of the Human Rights Act will be considered.
- the rules of natural justice will be observed.
- decisions will be reasonable and proportionate.
- where a hearing is required it will be fairly conducted and allow for appropriate consideration of all relevant factors.
- decision makers shall avoid bias (or even the appearance of bias) and predetermination.
- the principles set out in the relevant data protection legislation will be applied.

When determining if an applicant for a driver licence or an existing licensed driver is a "fit and proper" person, the decision maker(s) will consider, without any prejudice and based on the information before them, if they would allow a person for whom they care, regardless of their condition, to travel alone in a vehicle driven by the applicant or licence holder at any time of day or night. If, on the balance of probabilities, the answer to the question is 'no', the individual will not be granted a licence or allowed to continue to hold a licence.

When determining if an applicant for a private hire operator licence or an existing licensed operator is a "fit and proper" person, the decision maker(s) will consider, without any prejudice and based on the information before them, if they would be comfortable providing sensitive information such as holiday plans, movements of their family or other information

to that individual, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes. If, on the balance of probabilities, the answer to the question is 'no', the individual will not be granted a licence or allowed to continue to hold a licence.

When determining all applications for licences and reviewing existing licences, the decision on the suitability of an applicant or licence holder will be made on the balance of probabilities. This means that an applicant or licence holder will not be 'given the benefit of doubt' and where there is any doubt that they are a "fit and proper" person, an application will be refused, or licence suspended or revoked, as the case may be.

## **Statutory Powers**

The provisions of the Local Government (Miscellaneous Provisions) Act 1976 provide grounds that the Council may revoke, suspend, refuse to grant or renew any licence as follows:-

### **Section 60. Vehicle Licence**

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefore under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:—
  - (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
  - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of
  - (c) this Part of this Act by the operator or driver; or
  - (d) any other reasonable cause.
- (2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.
- (3) Any proprietor aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

### **Section 61. Drivers licence**

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefore under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of 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 any other reasonable cause.
- (1A) Subsection (1)(aa) does not apply ifL
- (a) in a case where the driver has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or
  - (b) in a case where the driver has been required to pay an immigration penalty—
    - (i) more than three years have elapsed since the date on which the penalty was imposed, and
    - (ii) the amount of the penalty has been paid in full
- (2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.
- (b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (2ZA) The requirement in subsection (2)(a) to return a driver's badge does not apply in a case where section 62A applies (but see subsection (2) of that section)
- (2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.
- (2B) 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 under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver
- (3) Any driver aggrieved by a decision of a district council under subsection (1) may appeal to a magistrates' court.

## **Section 62. Operators licences**

- (1) Notwithstanding anything in this Part of this Act a district council may suspend or revoke, or (on application therefore under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds

- (a) any offence under, or non-compliance with, the provisions of this Part of this Act;
- (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
- (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
- (ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (d) any other reasonable cause.

(1A) Subsection (1)(ca) does not apply if

- (a) in a case where the operator has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or
- (b) in a case where the operator has been required to pay an immigration penalty—
  - (i) more than three years have elapsed since the date on which the penalty was imposed, and
  - (ii) the amount of the penalty has been paid in full

(2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the operator notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal.

(3) Any operator aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

## **Appeals**

Any person aggrieved by a decision of the Licensing Panel or other reviewing officer to revoke, suspend or refuse to grant a driver's licence or, by any conditions attached to the grant of a licence, may appeal to the magistrates' court within 21 days of the decision.

## **APPENDIX C - FITNESS CRITERIA FOR DRIVERS AND OPERATORS**

### **1. Introduction**

- 1) The purpose of this policy is to provide guidance on the criteria taken into account by the Council 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 / operator licence. The policy should be read in conjunction with the Council's current scheme of delegation in its constitution for the decision making process, and with the Institute of Licensing "Guidance on the suitability of applicants and licensees within the hackney carriage and private hire trades" (the IoL Guidance) (Appendix K)
- 2) The aim of this policy is to protect the safety of the public. The Council is concerned to ensure that:
  - a person is a fit and proper person;
  - the person does not pose a threat to the public;
  - the public are safeguarded from dishonest persons;
  - safeguarding of children and young persons;
  - safeguarding of vulnerable persons;
  - the public have confidence in their use of licensed vehicles.
- 3) This policy aims to provide guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:
  - applicants for driver / operator licences
  - existing licensed drivers / operators whose licences are being reviewed
  - Licensing Officers and Police
  - Members of the Licensing Committee, Licensing Panel, Chief Officer Neighbourhoods, Planning and Public Protection Service (or other relevant decision making body)
  - Magistrates and Crown Court hearing appeals against local authority decisions
- 4) Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases, applications for licences will be referred to the Licensing Committee/Licensing Panel/Chief Officer (or other relevant decision-making body). Whilst officers and the committee/panel will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.
- 5) Where applicants fail to disclose any previous convictions, cautions, warnings, penalty notices, orders or reprimands on their application form including any pending court proceedings or other matters they may be referred to the Licensing Committee or Licensing Panel for determination.

### **2. General policy**

- 1) Each case will be decided on its own merits.



- 2) A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
  - a. Remain free of conviction for an appropriate period (as set out in the IoL Guidance and in the table below); and
  - b. Show evidence that he is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).
- 3) For the purposes of this Policy, “other matters to be considered” may include but are not limited to the following:
  - a) criminal / motoring convictions;
  - b) court Martial;
  - c) cautions;
  - d) fixed penalty notices or other penalty notices;
  - e) anti-social behaviour orders or other similar orders;
  - f) breach of licensing conditions;
  - g) formal Warnings or Reprimands;
  - h) charges or matters awaiting trial;
  - i) fitness and propriety.
- 4) Where an applicant has a conviction(s) or other matter(s) to be considered for a criminal offence, the Council cannot review the merits of the conviction or other matter.
- 5) Where an applicant / licence holder has a conviction or other matter to be considered for an offence of aiding, abetting, attempting, conspiring, counselling, procuring, causing, permitting or inciting any of the criminal or motoring convictions / matters specified in this guidance, they will be considered relevant for the substantive matter.

### **3. Appeals**

- 1) Any applicant who has been refused a driver / operator licence, or a licensed driver / operator whose licence has been suspended or revoked has a right to appeal to the Magistrates’ Court within 21 days of receipt of the notice.

### **4. Powers**

- 1) Powers to grant driver / operator licences are contained within Section 51, Section 55 and Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act).
- 2) Powers to suspend, revoke or refuse to renew a driver’s licence are contained within Section 61 of the Act, where the applicant/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.

- 3) Section 61 (2B) allows the Council, if it appears that in the interests of public safety, to suspend or revoke a driver's licence with immediate effect. A Decision Notice explaining why this decision has been taken will be issued to the driver and will have effect when the notice is given to the driver. The driver may appeal this decision but may not drive during the appeal period.
- 4) Section 62 of the Act allows the Council to suspend, revoke or refuse to renew an operator's licence if the applicant/licence holder has been convicted of an offence under or non-compliance with the provisions of Part II of the Act; or grounds of any conduct on the part of the operator which appears to the Council to render him unfit , or due to any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted or any other reasonable cause.
- 5) The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Council to take into account all convictions recorded against an applicant or the holder of a private hire or hackney carriage driver's licence, whether spent or not. The Council will therefore have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

## **5. Consideration of disclosed criminal history**

- 1) Under the provisions of Sections 51, 55, and 59, of the Act, Council is required to ensure that an applicant for the grant or renewal of a driver / operator licence is a 'fit and proper' person to hold such a licence. However, if an applicant / licence holder has any matters to be considered, the Council may take into account:
  - 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 and age of applicant at time of conviction;
  - the sentence imposed by the court;
  - whether they form part of a pattern of offending;
  - any other factors that might be relevant.

## **6. Institute of Licensing "Guidance on the suitability of applicants and licensees within the hackney carriage and private hire trades" (the IoL Guidance)**

- 1) In determining the fitness or otherwise of a potential or existing licence holder, the Council will have regard to the provisions of the Institute of Licensing "Guidance on the suitability of applicants and licensees within the hackney carriage and private hire trades" (the 'IoL Guidance' – see Appendix K).
- 2) In accordance with the IoL Guidance, the same standards will be applied to drivers, operators and vehicle proprietors. However, a refusal to grant a licence to an individual as a driver or to suspend or revoke a driver licence will not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire operator licence. The decisions in such cases will be made independently and based on the appropriate information that is lawfully available to the Council, i.e. information that is only available on an enhanced DBS certificate and that would not be disclosed on a basic DBS certificate will not be used to determine an application for a vehicle or operator licence.

- 3) Matters that have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4) The Council will not normally grant a licence and will revoke an existing licence if the applicant or licence holder has more than one conviction and a pattern or trend of repeated offending is apparent. Additionally, the Council will not normally grant a licence to any applicant who is currently on the Sex Offenders' Register or on the Adult's or Children's barred lists.
- 5) In relation to single convictions, a licence will not normally be granted by the Council until the minimum time periods detailed in the table below for each offence-type have elapsed following completion of any sentence imposed (or from the date of conviction if a fine was imposed). These timescales have been extracted from the IoL Guidance. Where an applicant or licence holder is convicted of an offence which is of a type that is not detailed below, the Council will take that conviction into account and having reference to these timescales and IoL Guidance, will determine the appropriate course of action.

<b>Type of offence</b>	<b>Minimum Time period that should elapse from completion of sentence before a licence will be granted</b>
<p>Crimes resulting in death or intending to cause death or serious injury, These include:</p> <ul style="list-style-type: none"> <li>• Murder;</li> <li>• Manslaughter;</li> <li>• Manslaughter or culpable homicide while driving;</li> <li>• Terrorism offences;</li> <li>• Causing death by careless driving whilst under the influence of drink or drugs;</li> <li>• Causing death by dangerous driving;</li> <li>• Causing death by careless driving;</li> <li>• Causing death by driving: unlicensed, disqualified or uninsured drivers.</li> <li>• And any similar offences or offences which replace the above.</li> </ul>	None – a licence will not be granted
<p>Exploitation. This includes offences relating to:</p> <ul style="list-style-type: none"> <li>• Abuse</li> <li>• Exploitation</li> <li>• use or treatment of another individual, (e.g. slavery, child or vulnerable adult sexual exploitation, grooming, psychological, emotional or financial abuse)</li> </ul>	None – a licence will not be granted

<p>Violence and violence related offences. These include:</p> <ul style="list-style-type: none"> <li>• Actual bodily harm which is racially / religiously aggravated;</li> <li>• Arson;</li> <li>• Assault Police;</li> <li>• Common assault which is racially / religiously aggravated;</li> <li>• Criminal damage which is racially / religiously aggravated;</li> <li>• Grievous bodily harm with intent;</li> <li>• Malicious wounding or grievous bodily harm which is racially aggravated;</li> <li>• Possession of firearm</li> <li>• Resisting arrest;</li> <li>• Riot;</li> <li>• Violent disorder;</li> <li>• Affray;</li> <li>• Assault occasioning actual bodily harm;</li> <li>• Common assault;</li> <li>• And any similar offences or offences which replace the above.</li> </ul>	<p>10 years</p>
<p>Criminal Damage and Public Order Offences. These include:</p> <ul style="list-style-type: none"> <li>• Criminal damage;</li> <li>• Obstruction;</li> <li>• Possession of a weapon (or imitation weapon) or any other weapon related offence, other than a firearm</li> <li>• S5 Public Order Act 1986 offence (harassment, alarm or distress);</li> <li>• S.4 Public Order Act 1986 offence (fear of provocation of violence);</li> <li>• S4A Public Order Act 1986 offence (intentional harassment, alarm or distress);</li> <li>• And any similar offences or offences which replace the above.</li> </ul>	<p>7 years</p>
<p>Sex and indecency offences. These include:</p> <ul style="list-style-type: none"> <li>• Assault by penetration;</li> <li>• Exploitation of prostitution;</li> <li>• Indecent assault;</li> <li>• Offences involving children or vulnerable adults;</li> <li>• Possession of indecent photographs, child pornography etc;</li> <li>• Rape;</li> <li>• Sexual assault;</li> <li>• Indecent exposure;</li> <li>• Soliciting (kerb crawling);</li> <li>• And any similar offences or offences which replace the above.</li> </ul>	<p>None – a licence will not be granted</p>

<p>Dishonesty or any offence where dishonesty is an element of the offence. These include;</p> <ul style="list-style-type: none"> <li>• Benefit fraud;</li> <li>• Burglary;</li> <li>• Conspiracy to defraud;</li> <li>• Forgery;</li> <li>• Fraud;</li> <li>• Handling or receiving stolen goods;</li> <li>• Obtaining money or property by deception;</li> <li>• Other deception;</li> <li>• Taking a vehicle without consent;</li> <li>• Theft;</li> <li>• And any similar offences or offences which replace the above..</li> </ul>	7 years
<p>Supply of drugs, or possession with intent to supply or connected with possession with intent to supply, or related offence. These include:</p> <ul style="list-style-type: none"> <li>• Cultivation of a controlled drug;</li> <li>• Importation of a controlled drug;</li> <li>• Production of a controlled drug;</li> <li>• Supply of a controlled drug;</li> <li>• Or similar offences.</li> </ul>	10 years
<p>Possession of drugs, or related to the possession of drugs,</p>	5 years - any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
<p>Discrimination</p>	7 years
<p>Drink driving or driving under the influence of drugs</p>	7 years - any applicant will also have to undergo testing at their own expense to demonstrate that they are not dependent on alcohol
<p>Using a held-hand mobile telephone or a hand-held device whilst driving</p>	5 years

Major traffic offence. These include: <ul style="list-style-type: none"> <li>• Failing to stop after an accident</li> <li>• Failing to give particulars or to report an accident within 24 hours</li> <li>• Undefined accident offences</li> <li>• Driving while disqualified by order of Court</li> <li>• Attempting to drive while disqualified by order of Court</li> <li>• Dangerous driving</li> <li>• Furious driving</li> <li>• Using a vehicle uninsured against third party risks</li> <li>• Driving otherwise than in accordance with a licence</li> <li>• Driving after making a false declaration about fitness when applying for a licence</li> <li>• Driving a vehicle having failed to notify a disability</li> <li>• Driving after a licence has been revoked or refused on medical grounds</li> <li>• Motor racing on the highway</li> <li>• Failure to give information as to identity of driver, etc.</li> <li>• Aggravated taking of a vehicle</li> <li>• Offences that resulted in injury to a person or damage to any property. including vehicles</li> <li>• Similar offences or offences which replace the above</li> </ul>	7 years
Minor traffic offences resulting in 7 or more points on a DVLA licence (i.e. not involving loss of life, driving under the influence of drink or drugs or driving whilst using a mobile phone, and not a major traffic offence)	5 years
Hackney carriage and private hire related offences	7 years
Vehicle use offence, including hackney carriages and private hire vehicles.	7 years

## 7. Breach of Legislation or Licence Condition

- 1) An applicant who has a conviction or other matters to be considered for a breach of legislation, byelaw or licence condition is unlikely to be granted a licence unless a period of **at least 12 months** has elapsed since the most recent breach.
- 2) An existing licence holder found to be in breach of legislation or licence condition is on the first occasion, likely to be warned in writing as to future conduct, provided that the breach did not compromise the safety of passengers or that the public were not put at risk.
- 3) Where an existing holder is found to have more than one breach of licensing legislation or licence condition, or a single serious breach, the council may suspend or revoke the licence.
- 4) The above is irrespective of any legal proceedings which may be pending or have been taken.

## APPENDIX D - REHABILITATION OF OFFENDERS ACT 1974 AS AMENDED

Under the guidelines of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 paragraph 8 states the convictions in relation to a “Taxi Driver” are no longer spent. The definition of “Taxi Driver” includes hackney carriage and private hire drivers. For details of the criteria relating to convictions please refer to Appendix C of the Council’s policy **(Note: this only applies to drivers.)**

The rehabilitation period (the length of time before a caution or conviction becomes spent) is determined by the type of disposal administered or the length of the sentence imposed. Rehabilitation periods that run beyond the end of a sentence are made up of the total sentence length plus an additional period that runs from the end of the sentence, which we have called the ‘buffer period’. Other rehabilitation periods start from the date of conviction or the date the penalty was imposed.

<b>Sentence/disposal</b>	<b>Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered).</b>  <b>This applies from the end date of the sentence (including the licence period).</b>	<b>Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered).</b>  <b>This applies from the end date of the sentence (including the licence period).</b>
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order**	1 year	6 months

\*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

\*\*In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

The following table sets out the rehabilitation period for sentences which do not have “buffer periods” and for which the rehabilitation period runs from the date of conviction:

<b>Sentence/disposal</b>	<b>Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).</b>	<b>Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).</b>
Fine	1 year	6 months
Conditional discharge,	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order*	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

## **Motoring Offences**

An endorsement for a road traffic offence listed in Schedule 2 to the Road Traffic Offenders Act 1988, imposed either by the court or by means of a fixed penalty notice (FPN) is a sentence for the purposes of the 1974 Act and may become spent after 5 years (or two and half years where the offender is under 18). Road traffic legislation specifically provides for a FPN in these circumstances to be treated as a conviction and dealt with as such under the 1974 Act. Penalty points and a driving disqualification imposed by the court on conviction may become spent when they cease to have effect (penalty points have effect for three years as set out in road traffic legislation). Where the court imposes more than one sentence or penalty for the offence then the longest rehabilitation period determines when the conviction may become spent.

Further guidance on this may be obtained from the Home Office publication “A Guide to the Rehabilitation of Offenders Act 1974” purchasable from H.M.S.O.

Important Note: This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act. Anyone in doubt should seek their own legal advice.



## **APPENDIX E - THE SCHEME OF DELEGATION FOR LICENSING MATTERS**

The determination of all taxi licensing matters (including fee setting, applications renewals and reviews of licences) within the terms of reference of the Licensing Committee is delegated to Officers with the following exceptions:

### **MATTERS TO BE DETERMINED BY THE LICENSING COMMITTEE:**

- Approving any relevant policy including any enforcement policy.
- Any matters (including Licensing Applications) which the Licensing Committee has reserved to itself.
- Where the Chair of the Committee (or in his or her absence the Vice Chair) considers that a matter should be determined by the Committee or the Chief Officer of the Planning and Public Protection Service (or his nominated representative) considers the application should be considered by the full Committee.
- Where a matter is referred to the Licensing Committee by the Chief Executive or Monitoring Officer following a decision of a Licensing Panel under paragraph 7.10.3 of the Constitution.

### **MATTERS TO BE DETERMINED BY LICENSING PANELS:**

#### **All licences/permits/consents/registrations and reviews**

- Applications or renewals or reviews of licences, permits, consents and registrations where there are representations or objections from third party consultees or relevant unspent convictions.
- Any decision to object when the Council is a consultee and not the relevant authority considering the application
- Where a Councillor makes a written request for the application to be determined by a Panel giving valid licensing reasons; or the Chief Officer of the Planning and Public Protection Service (or his nominated representative) considers any matter should be considered by a Panel
- Where the proposal involves the County Borough Council either as applicant or land owner and the scheme is not of a minor nature and/or is subject to objections which are of material weight in the assessment of the application;
- Where the applicant is a Councillor of Torfaen County Borough Council, a member of staff within the Planning and Public Protection Service, a member of the Council's Management Team, or service head or any member of staff within the Authority who could be seen as having a direct input to and therefore influence an application decision;
- Where approval of the application would represent a significant departure from the Licensing Policy of the Council or other published policy.
- Where any licensing consent or registration function is delegated to officers, the Licensing Committee shall hear appeals against officer decisions, unless there is a right of appeal direct to the courts.

## **APPENDIX F - POLICY ON REQUESTS FOR INFORMATION, DISCLOSURE OF INFORMATION, AND USE OF INFORMATION AS A RESULT OF AN ENTRY ON THE NATIONAL REGISTER OF TAXI LICENCE REFUSALS AND REVOCATIONS (NR3)**

In this policy, the 'first authority' refers to the Council which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a Council which is seeking more detailed information about the entry.

### **1. Overarching principles**

- 1) This policy covers the use that this authority will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi licence. This information is important in the context of a subsequent application to another authority for a licence by a person who has had their licence refused or revoked in the past.
- 2) This authority has signed up to the NR3. This means that when an application for a taxi licence is refused, or when an existing taxi licence is revoked, that information will be placed upon the register.
- 3) Throughout this policy reference is made to 'taxi licence.' This generic term covers both a hackney carriage and private hire driver and vehicle licence, as well as a private hire operator licence.
- 4) When an application for a new licence, or renewal of an existing licence is received, this authority will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.
- 5) Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.
- 6) For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application.
- 7) Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible

to appeal the decision by way of case stated. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

- 8) The data will be held securely in accordance with this authority's general policy on the secure retention of personal data [which is available at [www.torfaen.gov.uk](http://www.torfaen.gov.uk). At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure and destruction of personal data, again which is available at [www.torfaen.gov.uk](http://www.torfaen.gov.uk)
- 9) The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-On-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.
- 10) Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.
- 11) Decisions of the local authority, magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim first arose" (see The Civil Procedure Rules R54.5). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

## **2. Making a request for further information regarding an entry on NR3**

- 1) When an application is made to this authority for the grant of a new, or renewal of, a taxi licence, this authority will check the NR3.
- 2) This authority will make and then retain a clear written record of every search that is made of the register. This will detail:
  - the date of the search;
  - the name or names searched;
  - the reason for the search (new application or renewal);
  - the results of the search; and

- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

- 3) If this authority discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's data protection policy in relation to the use of any data that is obtained as a result of this process.
- 4) This request will be made in writing in accordance with the form at Appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

### **3. Responding to a request made for further information regarding an entry on NR3**

- 1) When this authority receives a request for further information from another authority, a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.
- 2) This authority will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.
- 3) This authority will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.
- 4) If this authority is satisfied that the second authority data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed. This will be determined by an officer who has been trained to discharge this function.
- 5) Any disclosure must be considered and proportionate, taking into account the data subjects' rights and position and responsibilities of a hackney carriage or private hire vehicle driver.
- 6) Data is held on the NR3 register for a period of 25 years, but this authority will not disclose information relating to every entry. Each application will be considered on its own merits.
- 7) This authority will disclose information relating to a revocation or refusal to grant a licence in accordance with the timescales contained within its Hackney Carriage and Private Hire Licensing policy. Where the reason for refusal to grant or revocation relates to a conviction which is outside the timescales determined then the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

- 8) Any information about convictions will be shared in accordance with this policy under part 2 of schedule 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the Council by an enactment or rule of law.
- 9) The officer will record what action was taken and why. This authority will make and then retain a clear written record of every decision that is made as a result of a request from another authority. This will detail:
- The date the request was received;
  - How the data protection impact assessment was conducted and its conclusions;
  - The name or names searched;
  - Whether any information was provided;
  - If information was provided, why it was provided (and details of any further advice obtained before the decision was made);
  - If information was not provided, why it was not provided (and details of any further advice obtained before the decision was made); and
  - How and when the decision (and any information) was communicated to the requesting authority.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

- 10) If the authority is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances, it is essential that discussion takes place as a matter of urgency between the data protection officers of the 1st authority and the 2nd authority.

#### **4. Using any information obtained as a result of a request to another authority**

- 1) When this authority receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications.
- 2) This authority will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).
- 3) Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority will make in relation to the application. All information will be considered on its merits and in accordance with the relevant policy.

## NR3 Information Disclosure Form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

Name of Council requesting information: Torfaen County Borough Council

Requestor authority reference number

Name of Council from which information is sought:

Name of individual in respect of whom the request is made:

Decision in respect of which the request is made: Refusal / revocation

Other details for this record: .....

Address: .....

Driving licence Number: .....

NI Number: .....

Reference number: .....

### Declaration by requesting authority:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request is attached to this document.

Signed:

Date

Name:

Position:

(For completion by providing authority)

Further information to support the decision recorded on NR3 in respect of the above named individual

Information / List of information attached

### Declaration by providing authority

The authority hereby confirms that it has conducted a data protection impact assessment. It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements

Signed:

Date

Name:

## **APPENDIX G – HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS’ DRESS CODE**

It is recognised that the taxi trade, both hackney carriage and private hire, play an important role in portraying a positive image of the area.

To ensure that the hackney carriage and private hire trade portrays a professional image and to ensure that driving is carried out safely the following dress code applies:

1. All clothing must be clean, in good condition and free from damage
2. shorts and skirts must be no shorter than knee length
3. footwear must fit around the heel of the foot
4. hoods should not be worn over the head whilst driving

Examples of acceptable clothing include:

- Trousers/smart jeans
- Shirt
- Smart t-shirt
- Smart shorts
- Polo shirts
- Jumpers

Unacceptable standards of dress include:

- Clothing bearing slogans or graphics that are of an offensive/suggestive nature
- Clothing that is dirty, smelly, faded or damaged
- Footwear such as flip flops or sliders that do not have heel straps
- Pronounced heels
- Baseball caps or other headwear that obscures the face
- Clothing that leaves the shoulders and top of the arms uncovered such as vest tops
- Clothing that does not cover the chest, stomach/midriff such as low cut tops or crop tops.

The above lists are not exhaustive, and there may be other standards of dress that are deemed not acceptable by authorised officers of the Council. Failure to comply with the dress code may result in a written warning. Persistent failures to comply on more than two occasions within 12 months may result in a review of the licence.



## **APPENDIX H - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S CODE OF CONDUCT**

This code of conduct applies to all licensed hackney carriage and private hire drivers. It should be read in conjunction with Council's taxi licensing policy and licence conditions. The Council may reconsider your fitness and propriety to act as a licensed driver if you fail to comply with this code of conduct.

Hackney carriage and private hire driver licensed by Torfaen County Borough Council, shall be firmly committed to offering the highest levels of service to all our passengers and promise the following:

Drivers should:

1. Greet passengers in a friendly way and offer reasonable help with their luggage at both ends of the journey.
2. Act in a professional manner at all times.
3. Attend punctually when undertaking a pre-booked hiring.
4. Be professional and understanding to other road users.
5. Treat information they receive about passengers in a discreet and confidential manner.
6. Switch off the engine if required to wait.
7. Always ask if a vulnerable passenger needs help and should not make assumptions.
8. If the passenger wants to travel outside local authority boundary, agree the fare before setting off or agree to use the taximeter (where applicable).

Drivers should not:

1. Make discriminatory remarks relating to age, gender, sexuality, disability, race, religion or belief.
2. Use offensive or inappropriate language in public.
3. Give or take details of any blogs or personal websites or use any form of electronic communication to send messages to a passenger that do not relate to matters around the hiring of the vehicle. This includes social networking sites such as Facebook, Twitter or any other form of electronic communication for the purpose of social messages.
4. Use their position to force or indoctrinate passengers into following a political, spiritual or religious belief.
5. Take photographs (other than images captured on an approved vehicle CCTV system) of passengers even if it is at their request.
6. Behave in a manner that may be considered intrusive, intimate, over-personal or unprofessional with any passenger and should at no time provide any form of gift or gratuity, no matter how small or invaluable.

## Conduct of hackney carriage drivers at taxi ranks (official or unofficial ranks)

Drivers should:

1. Rank in an orderly manner and proceed along the rank promptly and in order.
2. Remain in attendance with the vehicle.
3. Be polite and courteous to any taxi marshals and follow their instructions.
4. Not allow the vehicle to be on the rank unless it is available for immediate hire.
5. Not wait for pre-booked fares on the rank.

## **APPENDIX I - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER EQUALITY ACT 2010 MEDICAL EXEMPTIONS POLICY**

The Equality Act 2010 places a number of legal duties on licensed drivers when transporting disabled passengers.

### **Assistance dogs**

The Equality Act 2010 places duties on both licensed Hackney Carriage and Private Hire Vehicle Drivers to carry guide, hearing and other assistance dogs accompanying disabled people, and to do so without additional charge.

These duties apply equally to dogs provided by UK charities affiliated with Assistance Dogs UK, equivalent overseas organisations, or assistance dogs which have been trained by their owners; and regardless of whether the dog is wearing a recognisable harness or jacket, or subject to formal certification. Where a prospective passenger informs a driver that a dog they wish to travel with is an assistance dog, this should be accepted at face value.

Assistance dogs are trained to ride with their owner in the main passenger compartment of a vehicle, usually lying at their feet, and the owner will instruct their dog to enter and exit the vehicle. Passengers with assistance dogs should be asked if they have any preference over which seat they sit in the vehicle – some may prefer to sit in the front passenger seat of a saloon vehicle, as the larger footwell can offer more space for the dog to sit in. Drivers should be prepared to provide any other reasonable assistance requested by the passenger; however it is unlikely that assistance dogs will require assistance in entering or exiting most vehicles beyond opening the passenger door. Drivers should not try to separate assistance dogs from their owners by insisting that the dog rides in a different part of the vehicle – doing so may cause distress to both the dog and the owner. Assistance dogs may ride in the rear load space of an estate car, if the dog's owner consents to this.

Assistance dogs are bred and selected for their calm nature, and receive substantial specialist training before beginning their roles. They are subject to regular grooming and veterinary health checks. While we recognise that a number of drivers who are not experienced with dogs may feel uneasy at being in such close proximity to one, this does not constitute valid grounds for refusing to carry a passenger with an assistance dog. Similarly, religious beliefs also do not provide grounds for refusing to carry assistance dogs in taxis and private hire vehicles, nor other legal requirements under UK law.

Drivers with certain medical conditions that are aggravated by exposure to dogs may be exempted from these requirements on medical grounds.

Exemption from carrying assistance dogs which accompany disabled persons, can only be sought on medical grounds.

Therefore, applicants will need to demonstrate the grounds for applying this exemption by providing medical evidence to the Council.

The main reasons a hackney carriage or private hire vehicle driver may wish to apply for a medical exemption are:

1. if they have a condition such as severe asthma, that is aggravated by contact with dogs;
2. if they are allergic to dogs; or
3. if they have an acute phobia to dogs.

The Council, therefore, expects the number of drivers likely to be eligible for an exemption to be very low.

To apply for an exemption for the carriage of assistance dogs, the [Carriage of assistance dogs exemption application form](#) must be completed by a Specialist Medical Practitioner. A copy of this form is available on the Council's website.

Examples of suitable medical professionals include, but are not limited to:

1. specialist / consultant
2. specialist nurse (for example, an asthma nurse)
3. practice nurses
4. the Council's nominated independent doctor

In exceptional circumstances, but only where no other alternatives are available, the Council may consider evidence from the applicant's General Practitioner.

The form must be accompanied by sufficient evidence of the allergy e.g. allergen test results, clinical history etc. A simple statement from a medical professional will not be considered as sufficient for the purpose of the exemption request.

If a driver has a chronic phobia to dogs, the Council would expect this to be supported by a report from a psychiatrist or clinical psychologist before a driver is granted an exemption. The applicant will be responsible for all costs associated in the provision of the necessary medical evidence.

If an exemption from carrying assistance dogs is granted, an exemption certificate and badge as prescribed by law will be issued to the driver.

An exemption will be granted for a specified period of time as determined by the Council. Consideration will be given to the type of Hackney Carriage vehicle that will be driven. Particular consideration will be given to the interior of the vehicle, and whether the vehicle has a partition separating the driver from the assistance dog and passenger. The prescribed exemption badge must be clearly displayed at all times in any Hackney Carriage or Private Hire vehicle that the exempt driver will be driving, and made available to an Authorised Officer on request.

In the absence of a medical exemption certificate from the Council, it would be a criminal offence for any hackney carriage or private hire driver to refuse to carry an assistance dog, to refuse to allow the assistance dog to remain with the passenger throughout the journey, or to make any additional charge for the carriage of the assistance dog.

## Wheelchairs

The Equality Act 2010 places duties on both licensed Hackney Carriage and Private Hire Vehicle Drivers who operate Wheelchair Accessible Vehicles to carry passengers in a wheelchair and provide assistance to ensure safety and reasonable comfort, and to do so without any additional charge.

The types of assistance that may be required include:

- If the passenger wishes to remain in the wheelchair, the driver must help the passenger to get in and out of the vehicle and secure the wheelchair in accordance to the vehicle specification.
- If the passenger wants to transfer to a seat, the driver must help him or her to get out of the wheelchair and into a seat and back into the wheelchair; the driver must also load the wheelchair into the vehicle together with any luggage.

A driver who fails to comply with any of the above duties without valid defence will commit a criminal offence, and may be fined up to £1,000 for each offence on conviction. Offences may also lead to revocation or suspension of taxi licences.

A 'reference wheelchair' is defined in statute as having the following dimensions:

- Length: 1200mm (approx. 48") including footplates
- Width: 700mm (28")
- Total seated height: 1350mm (54")
- Height of footrest: 150mm (6")

It is anticipated that the above dimensions for a reference wheelchair will cover the majority of manual wheelchairs – however, the Council recognises that some wheelchairs with specialist functionality, or motorised wheelchairs and mobility scooters, may exceed these dimensions and may not be able to be loaded and carried safely in all designated taxis. In such cases, drivers will be expected to assess whether the passenger can be safely carried in their vehicle, to carry the passenger if their safety and reasonable comfort can be assured, or to assist them in locating a suitable alternative vehicle otherwise, where this is practicable. Such circumstances may constitute a defence to an offence mentioned above.

In all cases, we expect drivers to treat passengers with respect and sensitivity, and to provide a clear explanation to the passenger as to why they have not been able to convey them.

Certain medical grounds may exist meaning the driver cannot provide assistance, for example where a person's physical condition makes it impossible, or reasonably difficult, to assist passengers in a particular type of wheelchair.

Given that the main reasons for a hackney carriage or private hire vehicle driver to request a medical exemption are likely to be back or muscle-related injuries, which are not likely to be conducive to driving for long periods, the Council expect the number of drivers likely to be eligible for an exemption to be low.

To apply for an exemption to the carriage of wheelchairs and offering assistance, the [Carriage of wheelchairs exemption application form](#) must be completed. A copy of this form is available on the Council's website.

The form must be completed by the applicant's General Practitioner or other Specialist Medical Practitioner, and must be accompanied by sufficient evidence such as a full diagnosis, details of ongoing investigations etc. A simple statement from a medical professional will not be considered as sufficient for the purpose of the exemption request. Any costs incurred in this process will be borne by the applicant.

## **Decision**

The Council will reach a decision based on the information from the medical form and associated reports. If the form or report is ambiguous in any way a decision will not be made and further information will be sought from the applicant's specialist medical practitioner seeking a clear response.

Applicant's that have a temporary condition will be granted a time limited exemption certificate. If the applicant wishes to extend the period of exemption a further medical assessment (using the same application form) will need to be completed prior to the expiration of the exemption certificate.

If an extension to a temporary certificate has not been sought, drivers will be expected to resume normal duties under the Equality Act 2010 once the exemption certificate has been expired.

Drivers issued with a temporary medical exemption certificate must return it to the Council within one working day after the expiry of the certificate.

## **Appeals**

Any driver aggrieved by the Council's decision to refuse to issue a medical exemption certificate may appeal to the Magistrates' Court within 28 days of the date of the refusal.

## **APPENDIX J - VIDEO POINT OF IMPACT SYSTEM (VPIS) POLICY AND CONDITIONS IN RELATION TO THE INSTALLATION AND USE IN HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

VPIS systems also known as vehicle dash cams are external facing cameras that record footage external to the vehicle. They are used to capture footage in the event the vehicle is involved in a road traffic incident. They have many advantages such as identifying who is responsible for causing an accident, providing evidence, resolving disputes, and in some instances it may lower insurance premiums. Vehicle proprietors of licensed hackney carriages and private hire vehicles that wish to install a VPIS system must do so in accordance with this policy and conditions.

VPIS/dash cams are subject to the General Data Protection Regulations (GDPR), and before purchasing a system, vehicle proprietors are advised to read the Information Commissioner's code of practice for surveillance cameras and personal information and Guide to GDPR, further information can be found on the [Information Commissioner's Office](#) website.

It should be noted that the vehicle proprietor is the data controller of the system and is responsible for the data.

Systems that record both internal and external images, must comply with this policy and the Council's CCTV policy and specification.

### **Conditions attached to Hackney Carriage and Private Hire Vehicle licences issued in respect of vehicles installed with VPIS:**

1. No VPIS system shall be installed in a vehicle unless it carries a CE marking and conforms to Council Directive 93/68/EEC or equivalent.
2. The vehicle proprietor must produce a VPIS/dash cam policy that clearly identifies the lawful basis for the processing of personal data collected, and the retention period of the data. The purpose of the system should be communicated to any driver of the vehicle.
3. The vehicle proprietor shall notify the Council within 7 days of having a VPIS system fitted. Such notification shall be in writing and will contain details of the vehicle that the system has been fitted to and the make, model and CE marking number (or equivalent) of the VIPS system. A copy of the proprietor's VPIS policy shall also be submitted with the notification.
4. An advisory notice that the VPIS is in operation, provided by the proprietor, shall be displayed inside the vehicle on each of the rear side passenger windows. The notices shall be positioned in a prominent position where they can be easily read by persons both inside and outside of the vehicle. The proprietor shall ensure that the notices are maintained in a clean and legible condition.

5. The proprietor shall ensure that the system is properly and regularly maintained and serviced in accordance with the manufacturer's instructions by a suitably qualified person. Written records of all maintenance and servicing shall be made and retained by the proprietor for a minimum of 12 months. Such written records shall be made available on demand by an authorised officer of the Council or a Police Constable.
6. Upon request for image retrieval by an authorised officer of the Council or a Police Constable the proprietor shall ensure that the VPIS system is made available to the officer or constable, as soon as reasonably practicable, and in any event within 7 days of the request.
7. The proprietor of the vehicle shall take all reasonable steps to ensure that any driver of the vehicle is made aware of every condition in relation to any installed VIPS system and has been given adequate instruction regarding the need for the system to be made available as soon as reasonably practicable, and in any event within 7 days of any request for any image retrieval.
8. The proprietor shall, where necessary, ensure that notification is lodged with the Information Commissioner to cover the purposes for which the VPIS system is used.



**APPENDIX K - INSTITUTE OF LICENSING'S GUIDANCE ON DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADES**

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



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:

 **LLG**  
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

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## Foreword

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

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

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

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

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

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

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

Philip Kolvin QC

Cornerstone Barristers

April 2018

## Chapter 1: Introduction

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

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

1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications<sup>1</sup>. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

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

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

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

1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*<sup>2</sup>.

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

<sup>2</sup> [2007] 1 WLR 2067

1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.

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

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

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

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## Chapter 2: Offenders and Offending - An Overview

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2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.<sup>3</sup> With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.

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

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

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

2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of reoffending and harm<sup>4</sup>. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

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<sup>3</sup> DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

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

2.6 Flaud<sup>5</sup> noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place<sup>6</sup>.

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

2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future<sup>7</sup>. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%<sup>8</sup>. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences<sup>9</sup>.

2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity<sup>10</sup>. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.

2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population<sup>11</sup>. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

### Risk of re-offending:

2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the

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

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

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

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

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

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

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

need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”<sup>12</sup>.

2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”<sup>13</sup>.

2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over<sup>14</sup>. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships<sup>15</sup>. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males<sup>16</sup>.

2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist<sup>17</sup>. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.

2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance<sup>18</sup>. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”<sup>19</sup>.

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

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

<sup>14</sup> Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364. <sup>15</sup> Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

<sup>15</sup> Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

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

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

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

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



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

## Chapter 3: 'Taxi' Licensing Overview

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

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

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

"The aim of local authority licensing of the taxi and PHV trades is to protect the public."

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

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

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

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

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

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

### Taxi Drivers

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

3.11 An applicant must hold a full DVLA or equivalent driver's licence, have the right to work in the UK, and be a "fit and proper" person<sup>20</sup>.

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

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

3.13 An applicant must also have the right to remain, and work in the UK<sup>21</sup>.

3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.<sup>22</sup>

3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*<sup>23</sup>. Silber J said:

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

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

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’<sup>24</sup>

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

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

3.19 The local authority has the power to require an applicant to provide: “such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”<sup>25</sup>

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

3.20 Some of these are universal, such as medical assessments<sup>26</sup>. Others are required by some authorities, but not others. These include:

Enhanced DBS certificates and sign-up to the update service;  
Knowledge tests;

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

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

<sup>23</sup> [2002] EWHC 1145 (Admin), [2003] RTR 199

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

<sup>25</sup> Local Government (Miscellaneous Provisions) Act 1976 s57(1)

<sup>26</sup> See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

Driving tests;  
Disability Awareness;  
Signed Declarations;  
Spoken English tests.

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

Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<sup>27</sup>) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker<sup>28</sup>.

All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks<sup>29</sup> and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

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

Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person’s safety and suitability<sup>30</sup>.

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

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

Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver’s licence on the applicant and his family is not a

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

<sup>28</sup> See *Adamson v Waveney District Council* [1997] 2 All ER 898

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

<sup>30</sup> As recommended by the DfT “Taxi and Private Hire Licensing – Best Practice Guide” para 59

consideration to be taken into account<sup>31</sup>. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.

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

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

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

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

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

As a society, we need to ask the question "who is driving my taxi?" and be secure in the knowledge that the answer is "a safe and suitable person". The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public's confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain

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

the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

## Private Hire Operators

3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority<sup>32</sup>. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person<sup>33</sup>.

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

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

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

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

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

“Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”<sup>34</sup>

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

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

<sup>33</sup> Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

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

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

3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation<sup>35</sup>. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

## Vehicle Proprietors

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

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

3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence<sup>36</sup> and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.

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

3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”<sup>37</sup>

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<sup>35</sup> See s57(1)(c) of the 1976 Act.

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

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

## Chapter 4: Guidance on Determination

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

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

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

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

### Pre-application requirements

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

#### Vehicles:

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

#### Drivers:

Enhanced DBS checks with update service;  
Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);



Medical checks;  
Knowledge of the geographic area;  
Spoken and written English tests;  
Disability awareness training;  
Child sexual exploitation and safeguarding training.

#### Operators:

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

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

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

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

“Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership<sup>38</sup>) is “safe and suitable” to hold the licence.

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

Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction<sup>39</sup>. Fixed penalties and community resolutions will also be considered in the same way as a conviction<sup>40</sup>.

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

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

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

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

“conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

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

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

Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

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

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

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

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

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

As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences

separately. However, there are some overriding considerations which will apply in all circumstances.

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

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

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

## Drivers

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

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

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

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

## Crimes resulting in death

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

## Exploitation

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

### Offences involving violence

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

### Possession of a weapon

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

### Sex and indecency offences

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

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

### Dishonesty

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

### Drugs

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

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

### Discrimination

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

### Motoring convictions

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

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

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

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

### Other motoring offences

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

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

### Hackney carriage and private hire offences

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

### Vehicle use offences

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

## Private Hire Operators

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

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

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

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

## Vehicle proprietors

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

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

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

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

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

## Acknowledgements

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

The core project group comprised:

Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)

Jim Button, Solicitor at James Button & Co and President of IoL

Philip Kolvin QC, Cornerstone Barristers and Patron of IoL

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Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL

Phil Bates, Licensing Manager for Southampton City Council

Sue Nelson, Executive Officer of IoL

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

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