

# Agenda



## Delegated Decisions - Cabinet Member for Licensing and Regulation

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Date: Tuesday, 4 February 2020

To: Councillor R Truman

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Item		Wards Affected
1	<u>Proposed Adoption of Institute of Licensing Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Industry (Pages 3 - 96)</u>	All Wards

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# Report

## Cabinet Member for Licensing and Regulation

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### Part 1

Date: 4 February 2020

**Subject** **Proposed Adoption of Institute of Licensing Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Industry**

**Purpose** The Cabinet Member for Licensing and Regulation is asked to consider and agree to consult on a revised Newport City Council Hackney Carriage & Private Hire Policy, specifically the policy relating to the relevance of previous convictions and other relevant information.

**Author** Licensing Manager

**Ward** All Wards

**Summary** The Licensing Committee and Licensing Manager regularly consider the fitness and propriety of new applicants or current licence holders to determine if an applicant is 'fit and proper' to hold a hackney carriage or private hire drivers' licence, having regard to the overall aim of protecting the public. When assessing "fitness" consideration is given to an applicant's criminal convictions as well as other matters such as allegations, charges, complaints or conduct.

The authority has in place an adopted policy to provide guidance on the treatment of convictions, cautions and criminal charges in respect of new applicants and existing hackney carriage/private hire drivers and operators. This particular policy has been in place since 2017. The Institute of Licensing (IOL) have issued guidance on this general area and Newport City Council now has the option of adopting their recommended standard. A revised policy has been produced containing the IOL additional measures.

**Proposal** **To approve public consultation on a proposed revised Hackney Carriage & Private Hire Policy regarding fitness and propriety of new applicants or current licence holders in the Hackney Carriage and Private Hire Industry.**

**Action by** Head of Law and Regulation

**Timetable**

**Signed**

## Background

1. Newport City Council administers and issues licences for Hackney Carriage and Private Hire vehicles, drivers and operators as part of its regulatory role.
2. Under Section 51 of the Local Government (Miscellaneous Provisions) Act, 1976 the authority shall, on receipt of an application from any person for the grant to that person of a licence to drive private hire and/or hackney carriage vehicles, grant to that person a driver's licence. Provided that the authority shall not grant a licence unless they are satisfied that the applicant is a 'fit and proper' person to hold a driver's licence.
3. The overriding aim of the Licensing Authority, when carrying out its licensing functions in respect of the Private Hire and Hackney Carriage industry, is the protection of the public.
4. In April 2018, the Institute of Licensing (IOL) published a document titled "Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades" ("the guidance").
5. The IOL Guidance was produced in conjunction with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO) following widespread consultation.
6. A copy of the Institute of Licensing (IOL) Guidance is attached at Appendix A of this report.
7. The guidance has been produced because there is currently no recent statutory or ministerial guidance on how Committee's, Sub-Committee's and/or Officers should make a determination on whether an applicant or licensee is a "fit and proper person".
8. The intention is to provide guidance on determining suitability, taking into account the character of the applicant or licensee and that it be used as a basis for the Council's own policies and in particular how regard should be had in the antecedent history of the applicant or licence holder and its relevance to their "fitness and propriety" or "character".
9. The guidance is intended to help local authorities achieve greater consistency so that applicants are less able to "shop" between authorities. Newport City Council wishes to provide an efficient service based on identified customer needs and consideration of the guidance will enhance this goal.
10. At a recent meeting of the Wales Licensing Expert Panel the guidance was considered and endorsed with the recommendation that all Welsh Licensing Authorities consider its approval and implementation. Many authorities in England and Wales have already adopted a new policy based on the guidance, or are currently in the process of doing so. Within Wales 14 of the 22 Welsh Licensing Authorities have introduced the IOL guidance into their official policy.
11. The Welsh Licensing Authorities who have adopted the guidance are as follows: Swansea, Cardiff, the Vale of Glamorgan, Bridgend, Neath Port Talbot, Anglesey, Denbighshire, Powys Rhonda Cynon Taff, Caerphilly, Merthyr Tydfil, Pembrokeshire, Monmouthshire, and Torfaen.
12. Further, the Department of Transport on the 12 February 2019 consulted on a document called "Taxi & Private Hire Vehicle Licensing: Protecting Users". The 'fit and proper' provisions contained within the Department of Transport consultation document are identical to the provisions within the IOL Guidance. It is likely that the Department of Transport will introduce this guidance as best practice to all local authorities in the very near future.
13. Newport City Council already has comprehensive guidance covering the fitness of applicants and current licence holders, however the IOL guidance could be a sensible enhancement to current arrangements.

14. It is therefore proposed that, where the IOL guidance suggests a higher standard than the current Newport City Council provisions, consideration is given to adopting those higher 'IOL' standards. This will ensure that the authority does not lower its protection of the public, compared to current arrangements, and allows the authority to align itself with the current best practice within the licensing profession in Wales and beyond.

15. Appendix B of this report highlights Newport City Council Policy with the addition of the IOL guidelines. Changes to the policy are highlighted in red.

16. It is important to note that if agreed the requirements of the new suitability policy will only apply to existing drivers if any new incidents occur during their licence and **not retrospectively**.

**Financial Summary**

- There are no immediate financial implications arising directly from this report.

	<b>Year 1 (Current)</b> £	<b>Year 2</b> £	<b>Year 3</b> £	<b>Ongoing</b> £	<b>Notes including budgets heads affected</b>
<b>Costs (Income)</b>	0	0	0	0	
<b>Net Costs (Savings)</b>	0	0	0	0	
<b>Net Impact on Budget</b>	0	0	0	0	

**Risks**

<b>Risk</b>	<b>Impact of Risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect</b>	<b>Who is responsible for dealing with the risk?</b>
Judicial review	H	L	The Licensing Authority will undertake consultation with the taxi trade, offering trade members to meet and discuss the Policies. The policy has been developed in accordance IOL Best Practice Guidance.	Licensing Manager
Reputational risk of failing to adopt best practice and being viewed as an authority where lower standards of fitness and propriety are tolerated.	M	L	Consider and adopt the new policy in line with the report	Regulatory Services Manager (Commercial Standards)

\* Taking account of proposed mitigation measures

**Links to Council Policies and Priorities**

Ensuring that the Council follows best practice will support the following Council Policies & Strategies:

- Newport City Council's Corporate Plan 2017-2022 (Building on Success, Building a Better Newport)

### **Options Available and considered**

1. Approve public consultation in relation to amendments to Newport City Council Hackney Carriage and Private Hire Policy.
2. Refuse public consultation in relation to amendments to Newport City Council Hackney Carriage and Private Hire Policy.

### **Preferred Option and Why**

To approve the amendments to Newport City Council Hackney Carriage and Private Hire Policy(s) to go out to public consultation. As detailed within the report, there will be extensive consultation period carried out in respect of the revised changes to the policy.

The draft policy has been widely consulted on nationally and helps ensure consistency throughout Wales and the UK. It has been produced in conjunction with the standards as prepared by the Institute of Licensing in collaboration with the Local Government Association (LGA), National Association of Licensing and Enforcement Officers (NALEO) and Lawyers in Local Government (LLG).

### **Comments of Chief Financial Officer**

There will be no adverse impact to the budget as a result of adopting the higher Institute of Licensing standards. Neighbouring authorities have all followed the IOL guidance so Newport City Council would be no less competitive whilst still offering appropriate protection to the public and the number of applications is not expected to drop as a result of this policy amendment.

### **Comments of Monitoring Officer**

The proposed action is in accordance with the Council's statutory licensing powers under section 51 of the Local Government (Miscellaneous Provisions) Act 1976, to determine the fitness of applicants and licensees to hold hackney carriage and private hire drivers' licences. In accordance with the Functions and Responsibilities Regulations, the approval and adoption of strategic licencing policies are executive decisions for the Cabinet Member for Licensing and Regulation. The determination of licensing applications, in accordance with these policies, is then a non-executive regulatory function which is carried out under the scheme of delegation by Licensing Officers and Licensing Committee. It is good practice to have clear policies and guidelines for the grant, renewal and revocation of licences, to ensure fairness and consistency of decision-making. The Council has an existing policy and guidance which provides a consistent framework for determining the "fitness" of applicants and licence holders, having regard to criminal convictions, driving offences and other matters of conduct and behaviour. However, the IOL has now produce revised guidance which strengthens some of the previous tests and imposes more stringent standards. This is likely to be adopted nationally as good practice by the Department of Transport. In the meantime, 14 of the 22 licensing authorities in Wales have already adopted the IOC guidance, including some neighbouring authorities. Therefore, it is recommended that the Council should also consider adopting these more stringent guidelines, to improve public protection and ensure a consistency of approach in relation to cross-border licensing. As with all policies, this should not be an absolute fetter on the discretion of the decision-maker, and there should always be a residual discretion to take account of exceptional circumstances. However, the guidelines will provide a consistent and fair basis for licensing decisions. It is proposed that the revised policy should be the subject of public and stakeholder consultation for a period of 6 weeks and any representations received will be reported back to the Cabinet Member before any final decision is taken to adopt the policy. Licensing Committee will also be consulted and their views will be reported back. In relation to the Council's public sector equality duty under the Equality Act 2010, an initial impact assessment has been carried out and this is attached to the Report. The assessment notes that a significant proportion of hackney carriage and private hire licence holders are from a BME background and, therefore, the more stringent licensing conditions may

have a disproportionate impact on these minority groups. However, the overriding objective of the proposal is to improve the quality of drivers and improve public safety and these requirements would apply equally, regardless of racial background.

### **Comments of Head of People and Business Change**

There are no HR issues arising directly from this report. The proposal is in line with the sustainable development in the Well-being of Future Generations Act. Consulting on potential changes to the Hackney Carriage & Private Hire Policy will involve stakeholders in the decision making process. The proposed changes in policy will support the prevention of crime by ensuring the licensing process has a number of checks and safeguards in place before a licence is granted.

### **Local issues**

All wards will be affected

### **Equalities Impact Assessment and the Equalities Act 2010**

An Equality Impact Assessments screening on the licensing of those in the taxi and private hire industry was completed. The assessment highlighted that there is no adverse or negative impact of opportunity for any equality target group for any reasons. The Equality Impact Assessment can be found in Appendix C.

### **Children and Families (Wales) Measure**

None

### **Wellbeing of Future Generations (Wales) Act 2015**

The Authority has a duty to improve the social, economic, environmental and cultural wellbeing of Wales. The areas covered in this report contribute to the following Well-being Goals

- A prosperous Wales
- A resilient Wales
- A more equal Wales

They are consistent with the five ways of working as defined within the sustainable development principle in the Act and support the objectives of other stakeholders. There is an emphasis on prevention as the licensing process ensures that a number of checks and safeguards are in place before a licence is granted. The prime focus for the Council is to ensure public safety and to provide an efficient and effective licensing service.

### **Crime and Disorder Act 1998**

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area, this policy proposing to improve safeguarding and public protection within the “taxi” industry.

### **Consultation**

The public consultation will run for a 6 week period all members of the “taxi” licensing industry will be informed via e-mail of the consultation. The proposed policy will also be presented to the Licensing Committee to seek their comments.

### **Background Papers**

Set out a list of any relevant background papers and whether they are available to the public.

- [Department for Transport - Taxi and Private Hire Vehicle Licensing: Protecting Users Statutory Guidance for Licensing Authorities \(February 2019 - consultation version\).](#)
- [Newport City Council Hackney Carriage & Private Hire Policies](#)

## **Appendix A**

**A copy of the Institute of Licensing (IOL) Guidance is attached at Appendix A**

## **Appendix B**

**Newport City Council Policy(s) when supplementing the IOL Guidelines**

## Appendix C

### THE EQUALITY IMPACT ASSESSMENT

# Fairness and Equalities Impact Assessment (FEIA)

The purpose of this assessment is to provide balanced information to support decision making and to promote better ways of working in line with equalities (Equalities Act 2010), Welsh language promotion (The Welsh Language (Wales) Measure 2011), sustainable development (Wellbeing of Future Generations (Wales) Act 2015), and the four parameters of debate about fairness identified by the Newport Fairness Commission (NFC Full Report to Council 2013).

**Completed by:** Alastair Dearing **Role:** Licensing Manager

**Head of Service:** Gareth Price **Date:** 09/12/2019

**I confirm that the above Head of Service has agreed the content of this assessment**

**Yes / No**

**When you complete this FEIA, it is your responsibility to submit it to**  
impact.assessments@newport.gov.uk

#### **1. Name and description of the policy / proposal being assessed. Outline the policy's purpose.**

The Institute of Licensing (IOL) in partnership with the Local Government Association, Lawyers in Local Government and the National Association of Licensing Enforcement Officers (NALEO) have produced guidance on determining the suitability of applicants and licensees in the hackney and private hire trades. The policy was also endorsed by the Wales Licensing Expert Panel and recommended for adoption by all Welsh authorities. NCC intends to adopt the policy in place of its existing fitness policy and provide a consistent approach to the determination of applications for hackney carriage and private hire trades.

#### **2. Outline how you have/will consult with stakeholders who will be affected by the policy/proposal. Please refer specifically to FEIA guidance in relation to relevant Welsh language duties.**

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. Members of the "Taxi" trade are affected by the policy as it will be used to determine their suitability to obtain and retain a licence. Members of the travelling public will be affected; other road users and other NCC service areas such as Social Services and Integrated Transport Unit who contract with proprietors and Operators for the provision of licensed vehicles for School transport and other contracts. It is a requirement of their contract that the driver is licensed.

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. What information/evidence do you have on stakeholders? e.g. views, needs, service usage etc. Please include all the evidence you consider relevant.**

The policy aims to protect 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? The proposal will not impact on access to services but aims to ensure the correct checks and balances are made to protect anyone travelling in a licensed vehicle in the county borough. Individuals with convictions etc may be prevented from obtaining a licence or existing licensees be subject to suspension or revocation. Each case is considered on its merits and the policy is guidance on what is generally acceptable or not when considering suitability so that it is clear to everyone involved in the process.

Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account. (Leeds City Council v Hussain [2002] EWHC 1145 (Admin), [2003] RTR 199 and Cherwell District Council v Anwar[2011] EWHC 2943 (Admin)

If agreed the requirements of the new suitability policy will only apply to existing drivers if any new incidents occur during their licence and not retrospectively.

**4. Equalities and Welsh language impact**

Protected characteristic	Impact:			Provide further details about the nature of the impact in the section below. Does it:  1. Promote equal opportunity 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation?
	Positive	Negative	Neither	
<b>Age</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Increased safeguards on suitability of licensees will have a positive impact on protecting all members of the travelling public but also give extra protection to those that may be more vulnerable due to age, sex, disability , reduced capacity etc.
<b>Disability</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Increased safeguards on suitability of licensees will have a positive impact on protecting all members of the travelling public but also give extra protection to those that may be more vulnerable due to age, sex, disability , reduced capacity etc  The Guidance criteria refers to an individuals' attitude, character and whether they are 'fit and proper' to hold a Taxi Driver licence. The criteria does not refer to Disability specifically, but if an individual has difficulties with substance misuse this would be a breach of the guidance and likely result in the withdrawal of their licence.

Protected characteristic	Impact:			Provide further details about the nature of the impact in the section below. Does it:  1. Promote equal opportunity 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation?
	Positive	Negative	Neither	
Gender reassignment/transgender	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence available to the Council to suggest a negative impact due to gender reassignment .
Marriage or civil partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence available to the Council to suggest a negative impact due to marriage or civil partnership.
Pregnancy or maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence available to the Council to suggest a negative impact due to pregnancy or maternity.
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>It is widely accepted that BME people are over-represented in the Criminal Justice System and receive harsher sentencing than their White counter-parts.</p> <p>The Ministry of Justice produced a report in 2017, titled “<b>Statistics on Race and the Criminal Justice System 2016</b> – A Ministry Of Justice publication under section 95 of the Criminal Justice Act 1991”</p> <p>The following has been taken from the above report:</p> <p><b>Arrests –</b></p> <p>In 2016/17, compared with the White ethnic group, arrests proportionate to population size were more likely to be carried out on the Black (8 times as likely), Mixed (between 2 and 3 times as likely), Asian (just over 2 times as likely) and Chinese or Other (1 ½ times as likely) ethnic groups.</p> <p><b>Prosecution –</b></p> <p>Relative to the population, the rates of prosecution for indictable offences for Black and Mixed ethnic groups were 4 and 2 times higher than for the White ethnic group. For every 1,000 population members, 16 Black and 9 Mixed defendants were prosecuted compared to 4 White defendants.</p> <p><b>Ethnic Make-up of Practitioners –</b></p> <p>Non-White ethnic groups were under –represented relative to the population among the Police, National Offender</p>

Protected characteristic	Impact:			Provide further details about the nature of the impact in the section below. Does it:  1. Promote equal opportunity 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation?
	Positive	Negative	Neither	
				<p>Management Service, Judiciary and Magistracy, with proportions increasing slowly or remaining the same over the last 5 years.</p> <p>Non-White ethnic groups were over-represented relative to the population among the Ministry of Justice and Crown Prosecution Service, with proportions increasing over the last 5 years.</p> <p>As a large number of Newport Taxi Drivers come from a BME or non-White background, the Guidance has the potential to have a differential impact on Race.</p>
<b>Religion or Belief or non-belief</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence available to the Council to suggest a negative impact due to religion or belief
<b>Sex</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Increased safeguards on suitability of licensees will have a positive impact on protecting all members of the travelling public but also give extra protection to those that may be more vulnerable due to age, sex, disability , reduced capacity etc</p> <p>The criteria set out in the Guidance will be applicable to both male and female applicants and Licensees. However, there are currently more male drivers / licensees than female so any impact would affect men more than women.</p>
<b>Sexual Orientation</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	There is no evidence available to the Council to suggest a negative impact due to sexual orientation.
<b>Welsh Language</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>There is no evidence available to the Council to suggest a negative impact due to Welsh Language.</p> <p>Once approved, the Guidance will be produced in the Welsh Language to comply with the requirements of the Welsh Language Act 1993.</p> <p>As we treat the Welsh Language on an equal footing with English, any request to conduct proceedings with the Taxi Licensing committee through the medium of Welsh should be met.</p>

**5 How has your proposal embedded and prioritised the sustainable development principle in its development?**

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? Describe how.
 <p>Long Term</p> <p>Balancing short term need with long term needs</p>	<p>Increased safeguards on suitability of licensees will have a positive impact on protecting all members of the travelling public but also give extra protection to those that may be more vulnerable due to age, sex, disability , reduced capacity etc.</p>
 <p>Collaboration</p> <p>Working together to deliver objectives</p>	<p>A key element of this policy contained within the strategy is the commitment to work in partnership with the public, trade, and other Local Authorities in order to increase Safeguards in the “Taxi” Industry.</p>
 <p>Involvement</p> <p>Involving those with an interest and seeking their views</p>	<p>All 1252 Licenced drivers, Licenced Operators and proprietors will be emailed regarding the consultation.</p> <p>The Consultation will also be presented to the Licensing Committee to seek out there views. Meeting will take place if requested by the trade organisation with the Licensing Manager.</p>
 <p>Prevention</p> <p>Putting resources into preventing problems occurring or getting worse</p>	<p>The Revised policy(s) cannot address the root causes of why some individuals commit crime, though further protects the travel public from further crime being committed specifically Safeguarding crime.</p>

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? Describe how.
 <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p>The Proposed revised Policy has been designed to have a positive impact on the Following Well Being Goals.</p> <ul style="list-style-type: none"> <li>• <i>A prosperous Wales: The Proposed policy will further improve safeguarding.</i></li> <li>• <i>A Wales of more cohesive communities: The Draft policy would help to protect local community's that use the services of taxis and make it a more viable and safe.</i></li> <li>• <i>A Wales of vibrant culture an thriving Welsh Language</i></li> </ul>

**6 Will the proposal/policy have a disproportionate impact on a specific geographical area of Newport?**

The Proposal is designed to impact all wards of Newport and due to the transient business of the "Taxi" industry will impact on Other Neighbouring Local Authorities.

**7 How does the proposal/policy relate to the parameters of debate about Fairness identified by the Newport Fairness Commission**

## 8. Equality Impacts and Actions

Please complete the below action plan which sets out steps that will/will not be taken in order to mitigate any negative impacts that your assessment has identified.

Impact identified	Who does it affect?	What will you do to mitigate the impact? If you plan to take no action, please justify your rationale	Who is responsible?
1 Race	BME	<p>Panel Members should attend mandatory Equality Training so decisions made are fair and can be seen to be fair. Equality Training will help Panel Members understand cultural differences and the discrimination faced by people with one or more Protected Characteristics. The guidance states “the entire character of the individual will be considered” and “the individual’s attitude and temperament” so cultural awareness will be vital to the process of determining an individual’s suitability.</p> <p>It is equally important that the new guidance is disseminated amongst all existing and new Drivers and Licensees, so they are aware of the consequences possible criminal offences will have their ability to work as a Taxi Driver or Licensee.</p>	Licensing Manager & Democratic Services.

## 9. Monitoring, evaluating and reviewing

How and when will the impact of the proposal/ policy be monitored and reported on?

Numbers of drivers and Operators licensed by the Authority will be monitored and compared with trend information on numbers generally. Also numbers of refusals of new licensees will be monitored along with complaints and formal actions against existing licensees.

## 10. Involvement

How will people be advised of the changes and of the FEIA?

The Institute of Licensing working party carried out a national consultation exercise on the draft Guidance and 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.

A 6 week Public Consultation will take place with 1236 current licensees drivers being informed of the consultation by e-mail. A Trade meeting will take place if requested by the Licence trade itself. If the policy is to be approved once again the trade will be informed of this and the Policy will be placed on the Council website.

## 11. Summary of Impact (for inclusion in any report)

### Equality Act 2010 Welsh

The proposed changes to the policy will have positive impact on some protected characteristics but not to the extent that the proposals could be judged to be unreasonable.

### Welsh Language

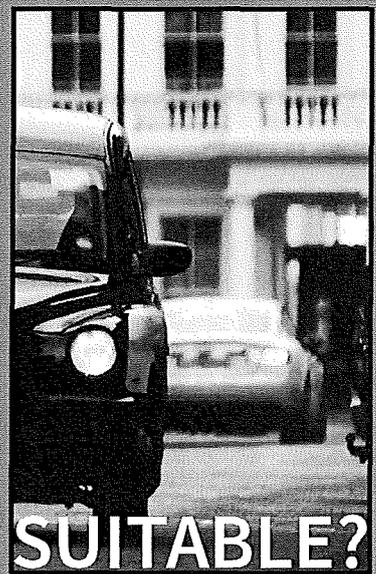
There is no Welsh language impact

### Wellbeing of Future Generations (Wales) Act 2015

**The Proposed Draft policy will support a number of the wellbeing goals as set out in the Act.**

### Parameters of Fairness

# 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

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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.



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>.

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

## 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 re-offending 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.

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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.

## Risk of re-offending:

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

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

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>.

- 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.

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<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.

## 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>.
- 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.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’<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.

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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.

<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-right-to-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

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

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

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<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>.

3.23 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.

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

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

<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.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability<sup>30</sup>.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account<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.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

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

<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)

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

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

## Private Hire Operators

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

authority<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

<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

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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.

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>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.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership<sup>38</sup>) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

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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.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction<sup>39</sup>. Fixed penalties and community resolutions will also be considered in the same way as a conviction<sup>40</sup>.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

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

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

## Drivers

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

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

#### Crimes resulting in death

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

#### Exploitation

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

#### Offences involving violence

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

#### Possession of a weapon

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

#### Sex and indecency offences

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

## Dishonesty

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

## Drugs

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

## Discrimination

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

## Motoring convictions

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

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

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

#### Other motoring offences

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

#### Hackney carriage and private hire offences

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

#### Vehicle use offences

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

## Private Hire Operators

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

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

## Vehicle proprietors

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

## Acknowledgements

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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
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

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

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[www.local.gov.uk](http://www.local.gov.uk)



Lawyers in Local Government (LLG). [www.lawyersinlocalgovernment.org](http://www.lawyersinlocalgovernment.org)



National Association of Licensing and Enforcement Officers (NALEO). [www.naleo.org.uk](http://www.naleo.org.uk)

# Newport City Council Hackney Carriage & Private Hire Policies

This policy was approved on the .....

With the implementation date of the .....

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## BACKGROUND

### **Role of Hackney Carriages and Private Hire Vehicles**

Hackney Carriage and Private Hire vehicles have specific roles to play in an integrated transport system. They are able to provide services in situations where public transport is either not available, E.g. in rural areas, or for those with mobility difficulties.

### **The Aim of Licensing**

The aim of licensing the Hackney Carriage and Private Hire vehicle trade is primarily to protect the public and to ensure that they have reasonable access to “taxi” services because of the role they play in the provision of local transport. It is important that the Council’s Hackney Carriage and Private Hire Licensing powers are used to ensure that licensed vehicles in Newport are safe, comfortable, properly insured and available, where and when required.

### **Government Best Practice Guidance**

The DfT has national responsibility for Hackney Carriage and Private Hire legislation in England and Wales. In 2010, it issued revised Best Practice Guidance to assist Local Authorities. The DfT Guidance states that Local Authorities will “decide for themselves the extent to which they wish to make use of the guidance or adapt it to suit their own purposes”. There is recognition within the guidance that it is for individual Licensing Authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own opinions on the relevant considerations.

The Government Guidance does not seek to cover the whole range of possible licensing requirements. Instead, it seeks to concentrate only on those issues that have caused difficulty in the past or that seems to be of particular significance. Where part of the guidance is relevant to a particular section of this Policy document, this will be confirmed at the beginning of the relevant section. It will normally be followed by a statement of the Council’s Policy in respect of that specific issue. Consequently, the DfT Guidance has been used to shape this Policy.

### **Council’s Taxi Licensing Policies and Conditions: all in one place**

The Council has responsibility for Licensing Hackney Carriage and Private Hire vehicles, drivers and operators within the city of Newport.

To assist the taxi trade, the public and the Council, the various Policies, Conditions and Guidance are incorporated into one document.

### **Taxi Fees**

The provisions of the Local Government (Miscellaneous Provisions) Act 1976 allow Authorities to set Licensing fees to recover the cost of running the “Taxi” licensing scheme. The cost of licence/fees has to be related to the cost of running the licensing scheme itself.

As such the Council will set fees to recover the cost of running its Taxi Licensing Service. The Authority will, of course, justify any charges it imposes, if requested to do so.

## INTRODUCTION TO THE POLICY

### Powers and Duties

This Statement of Licensing Policy, Conditions and Procedures have been produced pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, which place on the Council a duty to carry out its licensing function in respect of Hackney Carriage and Private Hire Vehicles.

### Objectives

In setting out its Policies and Conditions the Council seeks to promote the following objectives:

- The protection of the public, Safeguarding children and the vulnerable and the prevention of crime and disorder,
- The safety and health of the public and drivers,
  - Vehicle safety, comfort and access,
  - Encouraging environmental sustainability,
  - Promoting the vision of Newport.

The aim of the licensing process is to regulate the “Taxi” trade in order to promote the above objectives. It is the Council’s wish to facilitate well-run and responsible businesses.

### Status of Policies

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this document and the Policies and Conditions contained with it and the objectives set out above.

Notwithstanding the existence of these Policies, each application or enforcement measure will be considered on its own merits and in accordance with the Council’s Public Protection Enforcement Policy. Where it is necessary for the Council to depart from its Policies and Conditions, clear and compelling reasons will be given for so doing.

This Document containing all Policies and Conditions will provide those Council Officers and Elected Members who are required to administer and perform the licensing function with appropriate guidelines within which to act.

## **POLICIES AND CONDITIONS RELATING TO DRIVERS**

The statutory and practical criteria and qualifications for a Private Hire driver are broadly identical to those for a Hackney Carriage Driver. The sections below apply equally to Private Hire and Hackney Carriage Drivers.

### **1. Age and Experience**

The guidance recommends against setting a maximum or minimum age limit for drivers provided that regular medical checks are made.

The Council has not chosen to impose either a maximum or minimum age limit for drivers. However, a minimum period of post-qualification driving experience of one year is required.

For those over 65 years old, reference should be made to Section 6 below.

### **2. Topographical Knowledge & Licensing Conditions (Driver Knowledge Tests) Policy**

Hackney Carriage drivers need a good working knowledge of the area for which they are licensed, because vehicles can be hired immediately, directly with the driver, at Hackney Carriage stands or on the street. In order to maintain the high standards expected of drivers, a licence to drive a Hackney Carriage or Private Hire vehicle will not be granted unless the Licensing Authority is satisfied that the applicant is a fit and proper person. In this context, the ability to find destinations and read maps is seen a fundamental in providing a quality service for passengers.

In order to determine such fitness, applicants will be required to undertake a test as to their knowledge of:

- Basic English
- Basic numeracy
- How to use an A-Z Map
- Locations of specific places within Newport.
- Hackney Carriage drivers are tested on specific routes without the aid of a map.
- Hackney Carriage and Private Hire Licensing law.
- The Highway Code.
- Driver's Conduct (including a section on safeguarding when transporting children and Vulnerable Adults)

If a driver is not able to satisfactorily complete the test due to difficulties with spoken English, support will be offered to them to seek out opportunities for English language instruction. Applicants who fail the knowledge test will be required to re-sit the test and also pay an additional fee.

### **3. Driving Proficiency and Qualifications**

The Council believes that at present the standard car-driving test provides sufficient evidence of driving competency for the drivers of Hackney Carriage and Private Hire vehicles. It is considered that introducing a requirement that drivers pass the specific DVSA Driving and vehicle standard Agency test or indeed any other competency qualification, would not at present produce benefits which are commensurate with the costs involved. However, it is felt that all NEW applicants who have "totaled" up 6 penalty points on their

DVLA driver's licence (that are unspent at time of the application) will be required to undertake and pass a Pass Plus Course or a course approved by the Licensing Authority and provide a pass certificate (the test pass must be no older than 12 months old).

(Applicants that have 7 or more penalty points on their DVLA licence should refer to the Policy related to relevance of previous convictions and other relevant information found in Appendix A)

Where applicants have recently arrived from countries within the European Union or European Economic Area, any driving licence entitlement held in that country will have the effect of automatically counting towards the qualification requirement for the issue of a Hackney Carriage or Private Hire vehicle driver's licence. Applicants will be required to apply for a conversion of their existing driver's licence to a UK DVLA driver's licence. The Licensing Authority will not issue or renew a licence to drive a Hackney Carriage or Private Hire vehicle unless the applicant holds a UK DVLA driver's licence.

Where applicants have been resident in other non-EU countries, it is possible for them to convert any existing driving licence to a UK issued driving licence by passing an appropriate driving test.

It is a requirement for applicants to provide to the Licensing Authority with proof that they are legally entitled to work within the United Kingdom.

#### **4. Safeguarding Children and Vulnerable Persons Training**

All drivers (including existing licence holders who have not yet undertaken such training) will be required to attend a training session on safeguarding children and vulnerable persons.

The training session will cover the conduct and responsibilities of those licensed. In particular, it will provide training in identifying when vulnerable people are in need of protection and how to ensure they are taken to a place of safety and in the event that such action is deemed necessary, the need to report immediately any such incident or occurrence to the police and/or social services.

The training provider must be approved by the Licensing Authority (currently the Licensing Authority is conducting its own training). A certificate must be submitted to Newport City Council as confirmation that the training has been undertaken. Certificates will only be accepted by training providers approved by Licensing Authority (recent training sessions to the trade have been provided by the Licensing Authority and Gwent Police.)

New applicants will be required to attend the training at their own expense prior to submitting an application. Drivers and Operators (new and renewal applicants) who have not yet undertaken any training, will be expected to have met this requirement and produced evidence of received such training before 1 October 2017. Failure to do so will result in the driver's licence being suspended until such time they undertaken the training.

#### **5. Disability Awareness**

The Council requires all operators and drivers to be compliant with the provisions of the Equalities Act 2010, which has specific sections in relation to Private Hire and Hackney Carriage Drivers and their statutory responsibilities in respect of their service to disabled persons, including those aided by assistance dogs, and non-discrimination towards such persons.

The Council supports vehicles that are able to provide a service for disabled persons and encourages operators and drivers to provide a 24 hour service for disabled persons. The Council strongly encourages the provision of wheelchair accessible vehicles in Newport's Private Hire trade, in addition to the specific policy requirements that all Newport's Hackney Carriages are required to be wheelchair access.

Drivers and operators are expected to have knowledge in safe methods of conveying disabled persons, wheelchair bound or not.

The Council encourages all drivers to attend training on assisting with disabled people; this not only covers people in wheelchairs, but also the needs of people with a wide range of disabilities.

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.

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.

The Council may review the licence of any driver/operator who is found to be deficient in disability awareness. The lack of training/knowledge on the part of the driver/operator will not be accepted as a defence to an allegation of inadequate performance/behaviour or discrimination.

## **6. Medical Examination**

The DfT recognises that it is good practice for medical checks to be made on each driver as a condition of the initial grant of a licence and thereafter at each renewal. Adopting 'Group 2' medical standards and applying the C1 Standards to Hackney Carriage and Private Hire Drivers with insulin treated diabetes is considered to be best practice. A medical examination by a General Practitioner with whom the applicant is registered and who has access to the driver's medical records, to assess an applicant's fitness to drive a licensed vehicle, is required before a licence will be granted. It is Council Policy that a DVLA Group 2 standard of medical fitness for professional drivers must be undertaken.

A "request for a medical examination" form, which must be presented to the General Practitioner, with whom the applicant is registered, is available from the Licensing Section. The applicant is responsible for paying the fee for the examination to his/her relevant doctor's surgery. On completion, the examination report must be submitted to the Licensing Section. The applicant may on request have a copy of the report.

Licence Holders who have reached their 45th birthday upon application for renewal shall be required to have a full medical examination and thereafter, every 5 years at application for renewal. Licence holders who have reached their 65th birthday will be required to provide a full medical report at renewal and thereafter, every year at application for renewal. In all other cases, licence holders with relevant medical conditions, will be required to produce upon renewal a full medical report annually. More frequent checks will be required if, in the opinion of the Medical Practitioner, it is necessary.

Holders of current PSV and/or HGV Licences, who are able to produce proof of a current medical examination, not more than one month old, will not be required to undergo a further medical examination before licensing or re-licensing.

Currently licence holders must notify the Licensing Section of any deterioration in their health that may affect their driving capabilities. Notification must be given in writing and within 14 working days. The Licence Holder will have to either obtain a written statement from their General Practitioner with whom they are registered to confirm that the medical condition does not affect their Group 2 entitlement or to produce a new Group 2 medical. Failure to produce a written statement from the applicant's General Practitioner or a new Group 2 medical within 14 days will result in the driver's licence being suspended.

Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo a further examination by a medical practitioner appointed by the Council.

Where there remains any doubt about the fitness of any applicant, a Licensing Panel will review the opinion of the examining Medical Practitioner and make the final decision.

## **7. Disclosure & Barring Service (Criminal) check**

A criminal record check on a driver is seen as an important safety measure. The DfT considers that such checks should be at the level of standard / enhanced disclosure through the disclosure & barring service (DBS) as these include details of spent convictions and Police cautions. It is recommended as best practice that DBS disclosures should first be applied for when a licence is first sought and then every three years, even if a licence is renewed annually. Drivers must report all new convictions and cautions to the Licensing Authority in writing within seven days. The Rehabilitation of Offenders Act 1974 **excludes** Hackney Carriage and Private Hire drivers. Applicants for such licences are, therefore, required to disclose all convictions, including those that are regarded as spent under the 1974 Act.

Before an application for a driver's licence will be considered, the applicant must undertake an enhanced DBS disclosure of criminal convictions. New applicants from overseas must obtain a Certificate of Good Conduct from the relevant Embassy. A DBS check and a certificate of good conduct will be required for those who have resided in the UK for less than five years.

The Council is an approved Disclosure & Barring Service body. Therefore, applicants can apply for a DBS (CRB) check through the Council. It should be noted that the Authority will not facilitate portability of DBS checks from one Public Body to another.

A further enhanced DBS disclosure must be obtained and submitted by a licensed driver to the Council every three years. In having a regime which allows for a DBS check on drivers every three years, the Council additionally has system of undertaking DBS checks on drivers on a random basis. It should be noted that incomplete applications for licences will not be accepted by the Authority.

## **8. Common Law Police Disclosure**

Under this Scheme, when an individual comes to the notice of the Police and identifies their occupation as a taxi or PHV driver, the Police are requested to notify the appropriate Local

Licensing Authority of convictions and any other relevant information that indicates that a person poses a risk to public safety. Most notifications will be made once an individual is convicted, however, if it is considered that sufficient risk exists, the Police will notify the Authority immediately.

## **9. Immigration checks policy**

The Authority will only grant a Hackney Carriage/Private Hire driver's licence to those who have the right to work within the UK in accordance with national legislation. Drivers will be required to provide evidence to the Authority regarding their immigration status.

## **10. Driver Application Procedure**

An application for a Hackney Carriage and Private Hire driver's licence must be made on the specified form. The Licensing Authority will send correspondence to drivers via e-mail, although it should be noted that it is the driver's responsibility to ensure that renewal applications are undertaken in time.

To allow sufficient time for documents to be processed, applicants should ensure that the Licensing Authority receives their complete application, including the fee and any other necessary monies e.g. DBS, at least two weeks before expiry date of a driver's licence. A licence cannot be renewed following its expiry and in such cases, the applicant will be treated as being a new applicant. (Provided an application is submitted within 62 days after expiry, the applicant will not be required to undertake the Knowledge test and CSE training).

All drivers are required to have a current and valid E-mail address so the authority can undertake an electronic DBS check and send relevant appointments and reminders to applicants and drivers.

## **11. The Consideration of Driver , Proprietors & Operators applications**

The Council will consider each application on its own merits and in accordance with the Licensing Policies once the appropriate tests have been undertaken and the application form and supporting documents are complete. The relevant elements of the proposed procedure to consider the merits of applications are set out in Appendix A.

The standards expected of licensed drivers are set out in a Code of Good Conduct in Appendix B which should be read in conjunction with the other statutory and requirements of the policies set out in this document. Applicants for licences shall be required to sign a declaration to confirm their understanding and acceptance of the code at their next renewal date, should a licence be issued.

## **12. Grant and Renewal of Driver Licence**

The DfT Guidance recognises that it is not necessarily good practice to require licences to be renewed annually. It sees this requirement as imposing an undue burden on drivers and Licensing Authorities alike. As such Newport City Council has already been issuing drivers with 3 year drivers licences.

The DVLA will be contacted to check the applicant's driving licence for motoring offences. In having a regime which allows for a DVLA check to be undertaken on drivers every three years, the Council additionally has a system of carrying out random DVLA checks on drivers.

The conditions which will be attached to a Private Hire Driver's licence can be found in **Appendix B**.

### **13. Relevance of Convictions, Cautions and Conduct**

The DfT Guidance recommends that in considering an individual's criminal record, Authorities must be encouraged to consider each case on its merits, but to take a particularly cautious view of any offences involving violence, and sexual attack. It is recommended that Authorities have a clear Policy for the consideration of criminal records. Policies must address:

- The type of offence
- Number of offences, and
- The number of elapsed years since the offence.

Such Policies should cover applications from drivers outside of the United Kingdom for example, by requiring a Certificate of Good Conduct authenticated by the relevant Embassy.

Both Convictions and cautions are similar in respect of culpability, evidence and admission of guilt

In relation to the consideration of convictions, cautions and conduct recorded against a driver/operator/ proprietor the Council has adopted the Policy found at **Appendix A taking into consideration the Institute of Licensing (IOL) Guidance In assessing whether the applicant is a fit and proper person to hold a licence.**

New and renewal applications together with reviews of licences will be determined in line with the principles set out below that form Guidance on determine the suitability of applicants and new and renewal applications will either be granted (possibly with conditions) or refused.

Reviews of licences can result in additional being placed on the licence, the issuing of a warning, no further action or the suspension/revocation of the licence.

The purpose of hackney carriage and private hire licensing is to protect and ensure the safety of the travelling public; there are many instances where an application will be refused, or a licence or revoked or suspended if the person falls short of the fit and proper test. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account.

The LA makes decisions on the balance of probabilities rather than beyond reasonable doubt.

It is recognised that this policy is not legislation, it is however, the Authority's baseline for acceptability. As such, it will 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 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver, private hire driver (this authority adopts a dual badge for drivers that permits them to drive a private hire vehicle and a hackney carriage vehicle) and private hire operator. In relation to all of these licences, the authority has the discretion to grant, revoke and suspend a 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) 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. Fixed penalties and community resolutions will also be considered in the same way as a conviction.

It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there

was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

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.

The overriding consideration for the Licensing Authority is to ensure its statutory duty to protect the public is met. The licensing regime is intended, among other things, to ensure so far as is possible, that those licensed to drive vehicles are suitable persons to do so. Having considered and applied the appropriate guidelines, the following question should be asked:

“...Would you allow your daughter or son, granddaughter or grandson, spouse, mother or father, or any other person you care for or any vulnerable person you know, to get into a vehicle with this person alone?...” If the answer to this question is an unqualified “yes”, then a licence should normally be approved.

If there are any doubts in the minds of those making the decision, then the licence must be refused, suspended or revoked. It is the responsibility of the applicant or existing driver to satisfy the Council the driver/ operator is a ‘fit and proper’ person.

## APPENDIX A

### Policy relating to the relevance of previous convictions and other relevant information.

#### Drivers

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.

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.

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.

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

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

#### Exploitation

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

#### Offences involving violence

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

### **Possession of a weapon**

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

### **Sex and indecency offences**

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

### **Dishonesty**

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

### **Drugs**

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

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

### **Discrimination**

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

### **Motoring convictions**

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. 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**

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.

Where an applicant has a conviction for using a hand-held 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**

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.

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** 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**

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**

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.

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.

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.

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**

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

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

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

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.

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.

### **Other Matters to Be Considered**

Newport City Council Licensing Team will issue warnings as are appropriate to the circumstances. Minor or first time transgressions are likely to attract a written warning, repeated or more serious conduct may lead to a review of the licence.

Any Hackney Carriage or Private Hire Driver, Proprietor or operator acting in a disorderly, abusive, violent manner, including towards any member of the public, other drivers, Police Officers or any Council official (Newport City Council or otherwise) will be referred to the Licensing Panel for it to consider the matter of his/her conduct.

To determine if a driver is "Fit and proper" the Council will not base its decision solely on conviction or caution, but also a driver's or applicant's conduct or any inappropriate behaviour. The Licensing Panel will take into account "soft" intelligence provided by the Police and other partners including the Licensing Authority. The evidential threshold for licensing committees is based on the "balance of probability" and not the "beyond reasonable doubt" (the criminal standard of proof). In short, if the Licensing Panel is 51% certain an applicant is not fit and proper person, it will refuse/revoke the licence.

The Licensing Manager may if feel it appropriate to refer any applicant or driver to the Licensing Panel for its consideration in interest of public safety if for any reason the Manager feels he/she cannot determine such an application.

## 5. Table of delegation

Delegation Caution or Conviction	Licensing Panel Committee	Licensing Manager
Crime Resulting In Death		X
Exploitation		X
Offences Involving Violence		X
Possession of a weapon		X
Sex & Indecency Offences		X
Drugs		X
Dissertation		X
Motoring Convictions (Minor & Major)	X (7 points +)	X (under 7 points)
Drink Driving		X
Driving Under The Influence of Drugs		X
Using a Hand Held Telephone or Hand Held Device whilst Driving.	X	
Hackney Carriage & Private Hire Offences	X	
Vehicle Use Offences	X	
Private Hire Operators	X	
Vehicle Proprietors	X	
Other Matters to Be Considered	X	
Matters that falls outside the above policies but are required to be determined in the interests of public safety or the Licensing Manager may if feel it appropriate to refer any applicant or driver to the Licensing Panel for its consideration in interest of public safety if for any reason the Manager feels he/she cannot determine such an application.	X	

## Appendix B

### Private Hire Drivers' Conditions

#### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 – PART II PRIVATE HIRE DRIVER'S LICENCE – CONDITIONS OF LICENCE**

1. A driver shall at all times maintain 'a high standard of appearance and behaviour', afford assistance with passengers 'luggage' and take all reasonable steps to ensure the safety of passengers. (drivers should obtain a medical exception from Licensing authority if they unable to conduct the above duties to medical reasons)
2. A driver shall not operate a radio / music / or electronic device in the vehicle so as to interfere with the comfort of passengers, nor without the express consent of the hirer shall he/she eat or drink in the vehicle.
3. A driver shall not convey a greater number of persons than specified in the Licence of the vehicle he/she is using, provided that for this purpose children under the age of ten may be conveyed in the rear passenger compartment. No child under the age of ten, or more than one person over that age may be conveyed in the front of the vehicle. The driver shall not allow any person other than the Hirer to ride in the vehicle (unless school contract escort) when it is on hire, without the Hirer's consent.
4. Property accidentally left in a Private Hire vehicle must be reported to the operator and the Police within a 24 hour period.
5. The driver shall upon request provide the hirer with a written receipt for the fare paid.
6. The driver shall convey no animal except when it is in the custody of the hirer and in this case the animal must be conveyed in the rear of the vehicle.
7. The driver shall make all attempts to arrive punctually at the time and place specified by the hirer.
8. A driver shall not demand of the hirer a sum in excess of that agreed between the hirer and the Operator. If the vehicle is fitted with a taximeter which is used to determine the fare, then the driver shall give the hirer the opportunity to examine the fare shown on the taximeter at the termination of the journey.
9. The driver shall notify the Council of all changes in his personal circumstances or relating to this licence, such as arrests, any offence for which reported, issue of fixed penalty notices, convictions, police cautions, and changes of address within fourteen days.
10. The driver should have no sexual contact or be sexually explicit either physically or verbally towards passengers they are transporting. The driver shall at all times ensure that the hirer/passenger is cared for and must not knowingly put them in any position that could lead them into 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.
11. Private Hire Drivers should take no part in the booking procedure between the customer and the Private Hire Operator. This includes supplying a customer with a communication device, i.e. mobile phone, computer device so they can make a booking with the Operator.

12. The Private Hire Driver shall only work for the Operator they have listed on their application form. If they change Operator, they should inform the Licensing Authority within 5 working days.

## Legislation

The holder of a Private Hire Driver's Licence shall comply with the provisions relating to Private Hire vehicles contained in the following legislation:

- Town Police Clauses Act 1847
- Part II Local Government (Miscellaneous Provisions) Act 1976
- Road Traffic Act 1988 Part 11(a) Construction and Use of Vehicles and Equipment
- Equality Act 2010
- Health Act 2006

## CODE OF GOOD CONDUCT FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

This Code should be read in conjunction with the other statutory and Policy requirements set out in this document, it should be noted these are **not conditions**.

### 1. **Responsibility to the Trade:**

Licence holders shall endeavour to promote the image of the hackney carriage and private hire trades by:

- Complying with this Code of Good Conduct;
- Complying with all the Conditions of their Licence, Byelaws and the Authority's Hackney Carriage and Private Hire Licensing Policy;
- Behaving in a civil, orderly and responsible manner at all times.

### 2. **Responsibility to Clients:**

Licence holders shall:

- Maintain their vehicles in a safe and satisfactory condition at all times. Carry out frequent checks of vehicles to ensure compliance with Motor Vehicles Construction and Use Regulations to ensure that the vehicle is a roadworthy condition prior to carrying passengers. Where faults of any description are identified which undermine the roadworthy condition of the vehicle, the driver should not drive the vehicle until such time as the fault has been rectified.
- keep their vehicle clean and suitable for hire to the public at all times;
- Attend punctually when undertaking pre-booked fares;
- Assist, passengers into and out of vehicle where necessary
- Provide passengers reasonable assistance with luggage.
- The driver should have no sexual contact or be sexually explicit, either physically or verbally towards passengers they are transporting. The driver shall at all times ensure that the hirer/passenger is cared for and must not knowingly put them any position that could lead to 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.
- To be professional and understanding to other road users
- To be polite and courteous to passengers
- Not use a hand held mobile phone or similar devices whilst driving
- Be smart and clean in appearance
- Have awareness of personal hygiene
- Transport passengers by the shortest available route

### 3. **Responsibility to Residents:**

To avoid nuisance to residents when picking up or waiting for a fare a driver shall:

- not sound the vehicle's horn (between 11:30 pm and 07:00am unless danger is presented by another road user) or from a stationary vehicle);
- keep the volume of music media player or VHF radio to a minimum
- switch-off the vehicle's engine if required to wait;
- Take whatever additional action is necessary to avoid causing disturbance to residents in the neighbourhood.
- Pick up and drop off safely and without risk to pedestrians and other road users.

### 4. **Responsibilities at Ranks and Offices**

Licence holders shall:

- Rank in an orderly manner and proceed along the rank promptly

- Remain in attendance of the vehicle
- Not allow their music media players or radios to cause disturbance to residents of the neighbourhood.
- Private Hire Vehicles are not permitted to park or block a Hackney Carriage
- Use of Queensway bus lane and bus stops (SW, Cambrian Road) Newport City Centre. The use of Queensway bus lane and bus stop is prohibited to all Hackney Carriage & Private Hire Vehicles (other than Hackney Carriages vehicles accessing the night time (after 12 midnight) rank located under the NCP car park). Private Hire and Hackney Carriage parking illegally causes significant risk to members of public especially on the pedestrian crossing. Any Hackney Carriage or Private Hire Driver found using the bus lane / bus stop will be given a letter of warning by the Licensing Manager. If the driver is found on a subsequent occasion using the bus lane or bus stop in a 12 month period, the driver would normally be required to attend a Licensing Panel to determine if he/she is a fit and proper person.

## **5. General**

Drivers shall:

- Attend to their personal hygiene and dress so as to present a professional image to the public.
- be polite, helpful and fair to passengers
- drive with care and due consideration for other road users and pedestrians
- obey all traffic regulation orders and directions at all time
- not eat in the vehicle in the presence of customers; and
- Respect authorised Officers during the execution of normal course of their normal duties.

## **6. Conduct when working with Vulnerable Passengers**

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, an elderly person or somebody with learning difficulties. Additionally a person should be considered as vulnerable if their condition is such as to render them more susceptible to harm than may otherwise be the case (E.g. physical or mental illness, as a result of being under the influence of drugs or alcohol).

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

- Drivers must carry photo ID at all times, and wear it in accordance with the conditions of licence.
- A vulnerable passenger should not be transported in the front passenger seat of the vehicle, unless directed to do so by a Licensing Officer/ Police or Operator.
- The driver / operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver / operator is responsible for the provision of appropriate measures, however if appropriate measures are not in place then the driver / operator must not undertake the journey.
- If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.

- Drivers should always ask if a vulnerable passenger needs help, and should not make assumptions.
- Drivers must remain professional at all times
- Should not touch passengers inappropriately
- Should not use inappropriate or offensive language (swearing or sexualised discriminatory comments)
- Cause any passenger to feel intimidated or threatened.
- Attempt to use any passenger details recorded by the operator for any reason other than associated with that Private Hire Contract.
- Drivers should not behave in an over familiar manner with any passenger and under no circumstance provide any gift or gratuity.
- Drivers should not deviate from the journey allocated to them by their Operator.

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

- A log should be kept by drivers where there has been an incident occurring / actions taken or refusals of service involving a vulnerable person.
- When a service has been provided to a vulnerable passenger, drivers and operators must remain alert to issues around the safeguarding of children and vulnerable adults. If a driver/operator is concerned about the safety, welfare or behaviour of a vulnerable person, they should report this to the police by telephoning 101 (or in appropriate cases by calling 999).
- If drivers/operators are concerned about someone else's conduct, they should report the concerns to the Council's Licensing Service or Local Police.

# VEHICLE POLICIES

## 1. Limitation of “Taxi” Numbers

No powers exist for Licensing Authorities to limit the numbers of Private Hire vehicles which they licence. The present legal provisions on restricting the numbers of Hackney Carriage Vehicles are set out in Section 16 of the Transport Act 1985. This provides that the grant of a Hackney Carriage licence may be refused, for the purpose of limiting the number of licensed Hackney Carriages “if, but only if, the Local Authority is satisfied that there is no significant demand for the services of Hackney Carriages (within the area to which the licence would apply) which is unmet”.

Many local Licensing Authorities, including Newport, do not impose any quantitative restrictions for Hackney Carriages. Where quantitative restrictions are imposed, vehicle licence plates can command a premium. This might suggest that there are people who want to enter the market and provide a Service to the public but are being prevented from doing so by the limitation of numbers. It may be difficult to justify a quantitative control in such circumstances.

The Council has not at this time decided to set a limit on the number of Hackney Carriages which it licenses: no evidence has been provided of any difficulty arising from this stance.

## 2. Accessibility Policy

The Council is committed to social inclusion and to ensure that, a wide variety of opportunities are available to disabled residents for them to be able to enjoy a high quality of life. It fully supports the view of the Disability Rights Commission that:

*“Making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities. Their access to education, shopping, employment healthcare as well as social and family life is significantly improved when journeys become accessible.”*

For this reason, the Council considers it important for disabled residents to have access to all forms of public transportation. In addition to the general conditions, accessibility for disabled people including, but not limited to, people who need to travel in a wheelchair, is an important consideration.

Different accessibility considerations should apply to Hackney Carriage as opposed to Private Hire vehicles. This is because Hackney Carriages can be hired immediately in the street or at a Hackney Carriage stand by the customer dealing directly with a driver, whereas Private Hire vehicles can only be used by prior booking, through an Operator. On the basis that those with disabilities must have equal access to transport services, it is considered to be particularly important for a disabled person to be able to hire a Hackney Carriage on the spot with the minimum of delay or inconvenience and having accessible Hackney Carriages available helps make that possible.

Consequently, as from April 2007, the Council decided that it would only license as Hackney Carriages, vehicles that are Purpose Built “London style” fully wheelchair accessible vehicles. The Hackney Carriage must be safely accessible to a disabled person in their wheelchair and must be able to carry the person in safety and in reasonable comfort whilst

remaining in their wheelchair. The wheelchair can enter either from the side of the vehicle or the rear. The vehicle must comply with British and European vehicle regulations, be type approved to the standard of M1 whole-vehicle, M1 (Low Volume) category and be unaltered since the type-approval.

The Disability Discrimination Act 2005 superseded by the Equality Act 2010 imposes a duty on Taxi drivers to ensure that disabled people are not discriminated against or treated less favourably.

Section 166 of Equality Act 2010 places duties on drivers of 'designated' wheelchair accessible Hackney Carriage and Private Hire vehicles. These duties are:

1. To carry the passenger while in the wheelchair;
2. Not to make any additional charge for doing so;
3. If the passenger chooses to sit in a passenger seat to carry the wheelchair;
4. To take such steps as necessary to ensure that the passenger is carried in safety and reasonable comfort; and
5. To give the passenger such mobility assistance as is reasonable required.

Section 165 of the Equality Act 2010 allows Taxi Drivers to apply to the Licensing Authority for an exemption from such duties in relation to their assisting disabled passengers. Drivers seeking an exemption will require a letter from their Regional Medical Practitioner stating the reason why an exemption should be granted.

Section 166 allows the Licensing Authority to exempt drivers from these duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with these duties. An exempted driver will have to display an 'Exemption Notice' issued by the DfT in the vehicle.

### **Assistance Dogs**

Licensed taxi drivers in England and Wales are under a duty under Equality Act 2010 to carry guide, hearing and other prescribed assistance dogs in their taxis without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply to Newport City Council for an exemption from the duty on medical grounds. Any other driver who fails to comply with this duty could be prosecuted through a Magistrates' Court and is liable to a fine of up to £1,000 and could be deemed not to be a fit and proper person to hold a Hackney or Private Hire Driver's licence. Similar duties exist for PHV operators and their drivers.

### **3. Vehicle age**

The DfT Guidance reminds Licensing Authorities that it is perfectly possible for an older vehicle to be in good condition and that the setting of an age limit, beyond which they will not licence vehicles, may be arbitrary and disproportionate. It is, nevertheless, accepted that a greater frequency of testing may be appropriate for older vehicles, for example, twice-yearly tests for vehicles that are more than five years old.

The Council recognises the advice given by the DfT and at this stage does not intend to place any rigid age restrictions on licensed vehicles. However, once a vehicle is 15 years old

it will be required to be inspected by the Licensing Authority alongside the vehicle test, to determine if the vehicle is fit to be licensed or re-licensed.

#### 4. Environmental Policy

The DfT Guidance asks Licensing Authorities to consider how far their vehicle Licensing Policies can and should support any local environmental policies that they may have adopted, bearing in mind the need to ensure that benefits outweigh costs.

The Council aims to ensure that Hackney Carriages and Private Hire Vehicles assist in the suitable improvement of air quality as such; the Council has adopted the following emission standards for Hackney Carriage & Private Hire vehicles.

- **New Hackney Carriage & Private Hire Vehicles licences** will only be granted on vehicles that meet Euro 5 Standard.
- **Transfer of Hackney Carriage & Private Hire Vehicles licences** will only be granted on vehicles that meet Euro 5 standard.
- **Replacement of Hackney Carriage & Private Hire Vehicle.** An existing vehicle licence holder (a proprietor that has held a current licence before introduction of the policy and has continued to renew this licence) may change the vehicle on that licence if the vehicle meets minimum Euro 4 standards. Vehicle licences granted after the introduction of the policy will only be granted to replace vehicles that meet Euro 5 standard.

Euro Standard	Date the standard was introduced
Euro 2	January 1996
Euro 3	1 <sup>st</sup> January 2000 until 31 <sup>st</sup> December 2004
Euro 4	1 <sup>st</sup> January 2005 until 31 <sup>st</sup> August 2009
Euro 5	1 <sup>st</sup> September 2009 until 31 <sup>st</sup> August 2014
Euro 6	1 <sup>st</sup> September 2014

It is also important to note that some vehicle manufacturers introduced the Euro Ratings to their vehicles before the due dates above (I.e. it is possible that a vehicle could be rated as a Euro 5 before the 01/09/2009 depending on the make/model. Details of Euro ratings can be found on vehicle V5 or V5C log book)

The authority will also look at providing in the future further incentives for Vehicles that are either electric or hybrid.

#### 5. Vehicle testing

The DfT Guidance recognises that an annual MOT test for licensed vehicles of whatever age is appropriate. More frequent tests are not recommended, except for older vehicles (see section 3 above). The Council recognises the DfT guidance that a MOT test is appropriate, but considers it is important that vehicles are not only checked for road worthiness, but also that the vehicle meets the taxi licence conditions and that it is in excellent condition to carry passengers, as such before a vehicle licence is granted, the vehicle must be tested at a Council designated test / testing centres and in accordance with the Council testing procedures.

The following testing requirements are therefore proposed:

1. Hackney Carriage and Private Hire vehicles less than 5 years old (from date of first registration) will be tested annually and upon test pass will be granted a vehicle licence effective for 12 months/1 year.\*
2. Hackney Carriage and Private Hire Vehicles over 5 years old (from date of first registration will be granted a 12 month/yearly licence (although the vehicle will be issued a licence for 12 months it will be required to pass the Council vehicle test before 6 month from the date of issue of the 12month/yearly licence has elapsed.) Proprietors who fail to present the vehicle for testing before 6 month has elapsed will have their vehicle licence suspended immediately by the Licensing Authority and such suspension shall remain until the vehicle successfully passes the Council test\*. (Vehicles may be tested 31 days prior to the 6 month interval date)

*\*(In cases when the Proprietor has a poor history of vehicle maintenance the Licensing Manager may determine that the vehicle(s) licenced by that proprietor is tested on a quarterly basis. Before implementing this condition, a written warning and mediation meeting will take place between the Proprietor and the Licensing Manager/ Senior Licensing Officer.)*

3. Vehicle testing arrangements are currently through a nominated local testing station at which compliance with the requirements is assessed and confirmed by the issue of a certificate. Any authorised Officer of the Council or any Constable has the power at all reasonable times to inspect and test for the purpose of ascertaining its fitness, any Hackney Carriage or Private Hire vehicle licensed by the Council. If the Officer feels the vehicle is unfit for use as a Hackney Carriage or Private Hire Vehicle, or the vehicle is not in compliance with Taxi Legislation or the Council's Licensing Policy and Conditions, the vehicle's licence may be suspended, revoked or not renewed. The Licensing Officer may refer revocations and renewals to the Licensing Panel to determine if the vehicle is fit for purpose. It should be noted that proprietors who purposely cover up brakes/moving parts etc. with under-seal, similar product or any other method to prevent parts of the vehicle being checked, will not pass the Council vehicle test.

## **6. Signage/Plates/Advertising Policy**

Some members of the public do not distinguish between Private Hire vehicles with Hackney Carriages, and do not realise that Private Hire vehicles are not available for immediate hire or able to be hailed in the street. Therefore, it is important that the public are able to easily distinguish each type of vehicle. Creating distinctive livery for Hackney Carriages helps to resolve this difficulty.

Roof-mounted signs on Private Hire vehicles are not seen as best practice even if they indicate 'pre-booked only'. This because as any roof-mounted sign is liable to create confusion with a Hackney Carriage which also has a roof mounted sign.

Newport City Council licensed vehicles, both Hackney Carriages and Private Hire are required to display a 'Council' issued identity plate to the rear of the vehicle and adhesive signage on the front offside and front nearside doors of the vehicles. Currently, the adhesive

door signs are circular and predominantly green in colour for Hackney Carriages and triangular and predominantly Yellow for Private Hire Vehicle. It is proposed to continue using these colours in order to distinguish between the two different types of vehicles.

From the 1 June 2001, Hackney Carriages were required to be Black or a colour approved by the Council. Private Hire vehicles can be any colour unless the vehicle is of the same design and appearance of "Purpose Built" vehicles which are licensed for the Hackney Carriages trade in Newport. Vehicles which are similar in appearance and colour to "Purpose Built or approved Hackney Carriage vehicles" shall not be licensed as Private Hire vehicles in order to prevent any confusion between a Private Hire Vehicle and a Hackney Carriage Vehicle.

A Hackney Carriages licensed by the Council must carry an illuminated roof-mounted sign. The roof sign must state Taxi and must be illuminated when plying for hire.

Hackney Carriages Vehicles must have affixed to both offside and nearside front doors Council approved adhesive signs provided solely by the Council and affixed at the approved testing station. Private Hire Vehicles must have affixed to both offside and nearside front doors Council-approved adhesive signs provided solely by the Council and affixed at the approved testing station. The design of the signs (livery) can be found in Appendix E.

Limited advertising is permitted on Private Hire Vehicles. Details of any signs or advertising shall be submitted, in the first instance, to the Council's Licensing Manager for due consideration as to content.

## **7. Hackney Carriage Fares Policy**

Licensing Authorities have the power to set maximum Hackney Carriage fares for journeys within their area and the majority, including Newport City Council, do so. There is no power to set Private Hire fees. Fare scales should be designed with a view to practicality. The DfT sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week. The DfT also suggests that in reviewing fares, Authorities should pay particular regard to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also to the need to give taxi drivers sufficient incentive to provide a service when it is needed. There may well be a case for allowing higher fares to be changed at times of higher demand, for example later at night and early morning.

The Council will set Hackney Carriages fares, at maximum fare that Drivers or Operators of Hackney Carriage Vehicles can charge. Drivers or Operators of Hackney Carriage Vehicles who wish to charge less than the Council Tariff may do so. The Fare Tariff will be subject of on-going review to ensure that it meets with both the needs of the travelling public and of the Hackney Carriage Trade in providing that service.

Although the Council is not permitted to set fares for Private Hire Vehicles, Private Hire vehicles wishing to have "taxi" meters in the vehicle will be required to run under the tariff that has been set by the Private Hire Operator. The vehicle will either be required to display the Operator's Tariff on a tariff card in the vehicle or the Operator should give an estimated fixed fair to the customer at the time of the booking that should coincide with the meter.

## **8. Security/CCTV Policy**

The DfT Guidance recommends Licensing Authorities look sympathetically on or actively encourage the installation of security measures such as a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers.

It is not required by this Policy and Conditions that such measures should be implemented, as it is considered that such decisions are best left to the judgement of operators and drivers themselves. The Hackney Carriage and Private Hire Vehicle trade are, however, encouraged to build good links with Gwent Police, and to participate in the 'One Newport' Partnership. However, should proprietors wish to install CCTV in their Hackney Carriage or Private Hire Vehicle, they must write to the Licensing Authority and inform us of the installation. The Licensing Authority will provide practice guidance for the trade.

Hackney Carriages drivers who wish to use the front passenger seat for a paying passenger or for gain must have CCTV present in the vehicle and it must be approved by the Council following its best practice guidance. This will allow the provisions of the front seat to be used by family and friends when the vehicle is "not working".

## **9. Grant and Renewal of Vehicle Licences Policy**

The DfT Guidance makes no recommendation as to the duration of Hackney Carriage or Private Hire vehicle licences and legislation limits the maximum period of such licences to twelve months. The Council will grant both Hackney Carriage and Private Hire Vehicle Licences for a 12 month period. The Authority has power to impose conditions on both Hackney Carriage and Private Hire Vehicle licences. These can be found in Appendix C for Hackney Carriage and Appendix D for Private Hire Vehicles.

## **10. Prestige / Special" Vehicles/Stretched Limousines Policy/Wheelchair Private Hire Vehicles**

Local Licensing Authorities may be asked to license stretched limousines as Private Hire Vehicles. It is suggested by DfT guidance that Local Authorities should approach such requests on the basis that these vehicles, The Council's "special vehicle" Policy in respect of licence applications for such vehicles is set out in Appendix D alongside Prestige/Special and wheelchair Private Hire Vehicles.

Where a vehicle has been imported from another country, VOSA approved certification will be required. Historically, this has been in a form of Single Vehicle Approval (SVA) inspection regime before becoming registered in the United Kingdom. This is now the Individual Vehicle Approval (IVA) Scheme. The IVA test verifies that the converted vehicle is built to certain safety and environmental standards. The Council will require imported vehicles to meet the IVA standard and require evidence of this in the form of the V5C (Registration Certificate) of the vehicle, which may refer to IVA under the "Special Note" Section; or the proprietor must obtain written confirmation from:

VOSA, Ellipse, Padley Road, Swansea, SA1 8AN, that the vehicle is IVA compliant.

Proprietors will require details of the vehicle's make and model, registration number and VIN number. Consideration may be given to the age of such vehicles, these usually being five years old when imported into the United Kingdom.

Due to the individual nature of a “special vehicle” including wheelchair- carrying vehicles, it will inevitably give rise to issues that would not apply to conventional Private Hire vehicles and therefore it will be necessary to consider whether special conditions should be included on any licence including being exempt from the “environmental policy”.

## **11. Contract Vehicles**

Until January 2008, there were no requirements for a vehicle to be licensed when used for a contract with an organisation or firm for a period of at least seven days, for carrying passengers for hire or reward under a contract for the hire of the vehicle. However, this exemption only applied to the vehicle and driver specified by the contract and then only during the period of the contract. Any vehicle being used for a contract with one firm could not be used for any other contract or purpose during the period of that contract. Vehicles carrying out contract work after that date have been required to be licensed by the Council in order to continue to undertake that work: this includes school transport.

### **Funeral Vehicles / Wedding Vehicles**

There is no requirement for a vehicle to be licensed when it is used solely in connection with a funeral, or is wholly or mainly used by a person carrying on the business of a Funeral Director. A vehicle does not need to be licensed while it is being used solely for the wedding service.

## **12. Hackney Carriage Stands**

The purpose of Hackney Carriage stands (also known as ‘Taxi Ranks’) is to provide the public with a set location where they can hire a licensed Hackney Carriage. The stand is where a Hackney Carriage only may ply for hire in a stationary position. The Council shall work with the Hackney Carriage trade and other stakeholders to keep stands under constant review.

# PRIVATE HIRE OPERATORS

## 13. Requirements and Obligations

Any person who operates a Private Hire service using Private Hire vehicles must apply to the Council for a Private Hire Operator's licence. An Operator's licence permits the operator to make provision for the invitation or acceptance of bookings for a vehicle. A Private Hire operator must ensure that every Private Hire vehicle is driven by a person who holds a Private Hire driver's licence. An application for an Operator's Licence must be made on the prescribed form, together with the appropriate fee.

## 14. Criminal Record Check Policy

Private Hire operators are not exempt from the Rehabilitation of Offenders Act 1974, so standard or enhanced disclosures can be required. A basic disclosure from the Disclosure Scotland or a standard disclosure from the CRB or a certificate of good conduct from the relevant embassy for overseas applicants will be required for new operators. A Criminal Record Check will be required every 5 years. Operators that hold either a Hackney Carriage or Private Hire driver's licence with the Authority will not be required to undertake a CRB check.

## 15. Conditions

The Authority has the power to impose such conditions on an Operator's licence, as it considers reasonably necessary as stipulated in Appendix F.

## 16. Record Keeping Policy

Sections 56(2) and (3) of the 1976 Act place a duty on a Private Hire Operator to maintain records. However, it is for the Council to decide what records are required in relation to journeys that are booked.

Operators are required to keep records in respect of all bookings, vehicles and drivers, for a period of one year as defined in the Private Hire Operator's Conditions of Licence appendix D.

## 17. Insurance Policy

Before an application for a Private Hire Operator's Licence is granted, the applicant must take out the appropriate public liability insurance for the premises from which he/she is to be licensed. The conditions proposed for a Private Hire Operator's licence, will require that the Operator produces an appropriate certificate of motor insurance which covers every Private Hire vehicle they operate.

## 18. Licence Duration Policy

The DfT considers that annual licence renewal is not necessary or appropriate for Private Hire Operators, whose involvement with the public is less direct than that of a driver. They recommend, as good practice, that a licence period of five years would be reasonable.

Changes in legislation from the 1 October 2015 under the De-Regulation Act 2015 required all authorities to issue Private Hire Operators for a period of five years. Newport City Council will issue a 5 year licence to an individual(s) or a company, although the Operator's licence will not be transferrable.

## **19. Address from Which an Operator May Operate**

Upon grant of an Operator's Licence, the Council will specify the address from which the operator may operate. This will be the premises where the records are to be kept and at which they may be inspected by authorised Officers and Police Constables.

It is the responsibility of the Operator to ensure that appropriate planning consent exists for the use of the address which is to be used for operating the business. It should be noted that the grant of a Private Hire Operator's Licence will not imply that planning consent has been given.

## **20. Bases outside the Newport City Council Area & "Satellite" bases**

The Authority will not normally grant an Operator's Licence to an Operator with an operating base that is located outside the district of Newport. This is to ensure that proper regulation and enforcement measures can be taken and is in no way intended to be a restraint on trade. If the Authority were to ever consider issuing a licence outside the City, a comprehensive business plan would have to be developed to ensure proper regulation and enforcement measures were not undermined.

Where Operators use a second 'satellite' base as an Operator's office (whether it is a business or residential address) within Newport, they shall inform the Licensing Authority in writing so that the addresses may be stated on the Licence. The Licensing Authority reserves the right to charge for every additional office.

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

Operators are allowed to sub-contract bookings to other operators, both within the licensed area and outside of the Council's area. Operator licence conditions relating to Sub-Contracting can be found in Appendix D.

## **22. Operator's Responsibilities**

Newport City Council expects Private Hire Operators to play an integral role in ensuring not only public safety, but also the safety of the driver they despatch (despite the majority of drivers being "self-employed"). As such, all Operators are required to keep an incident book in which records both driver and passenger incidents.

As part of the Operator's 5 year licence, the licence conditions will be audited periodically in connection with the statutory requirements and any condition which forms part of the Operator's Licence. Following the audit, the Operator shall be graded as either: Compliant, Bronze, Silver or Gold. The Operator will be given a certificate highlighting the award given by the Licensing Authority. This certificate will not be mandatory to display, although Operators who are awarded with Gold, or Silver may wish to highlight the award on their websites, promotional material or when tendering for contracts. The aim of the awards scheme is to promote the "taxi" industry and ensure that there is a high quality of service which is recognised by affixing of a grade/award on their vehicles and at the Operator's Base. In addition, it allows the residents of the City and those visiting to make a choice of whom they wish to use by virtue of the grade award to a particular company.

## Appendix C

### Hackney Carriage Vehicle Conditions

#### Hackney Carriage Vehicle Licence Conditions

A Hackney Carriage proprietor is an owner or part owner of a vehicle, or where a vehicle is subject to leasing contract, hiring agreement or hire purchase, a proprietor is the person in possession of the vehicle under the agreement. In all such cases the proprietor requires a Hackney Carriage Proprietor's Licence from Newport City Council, before they are legally entitled to use the vehicle to ply for hire.

Licences can be obtained by making a full application to the Council. Each applicant must submit an application in respect of every vehicle for which a licence is required.

#### Specification

1. The Proprietor shall ensure that the vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and that all relevant statutory requirements (including in particular those contained in Motor Vehicles Construction and Use Regulations) shall be fully complied with.
  - a) The vehicle shall have no evident signs of previous significant accident damage. The paint work shall be of a professional finish over the whole of the vehicle's bodywork.
  - b) The bodywork shall have no significant signs of corrosion. Corrosion includes visible rust and signs of rust by virtue of the paintwork being blistered.
  - c) Bodywork damage cannot be patched up or fixed with 'Gaffer Tape' etc. (Although the quarter light windows can be affixed by Gaffer Tape in the interest of prevention of crime and wing mirrors can be taped if the mirror has been vandalised, but the mirror should be fixed before any future council tests.)
  - d) All parts of the passenger compartment shall be kept clean and free of any damage, which may otherwise affect its suitability for the carriage of passengers.
  - e) Where seat covers are used they shall be properly affixed to the seat so as not to become loose during use. They shall be kept clean and devoid of damage of any kind.
  - f) A working heating and ventilation system shall be provided within the Hackney Carriage.
  - g) A window on either side of the passenger compartment shall be capable of being opened easily by passengers and/or by the driver.
2. No material alteration or change to the specification, design, condition or appearance of the vehicle shall be made without the prior approval of the Licensing Manager.

## Type of Vehicle

3. The vehicle must be a purpose built fully wheelchair accessible vehicle. The vehicle must be safely accessible to a disabled person in their wheelchair and must be able to carry the person in safety and in reasonable comfort while remaining in their wheelchair. The vehicle must comply with British and European Vehicle Regulations, be type approved to the standard of M1 whole-vehicle, M1 (Low volume) category and be unaltered since the type-approval was obtained. Wheelchairs can either access the vehicle from the side or from the rear of the vehicle. The wheelchair must be secured within the vehicle at all times and in accordance with the Vehicles Manufacture Guidelines.

## PLATE, SIGNS, ADVERTISING, AND LIVERY

- 4 (a) Vehicles shall at all times display the external plate and internal disc which are supplied with this licence by the Council. The plate must be securely attached to the vehicle with the use of a plate bracket provided by the Council or screwed to the rear of the vehicle (magnetic or self-adhesive securing of the plate is not permitted). The only exception for not displaying the plate on the bracket is when the bracket breaches the Road Traffic Act, or if the vehicle precludes the use of the bracket; in this case proprietors must contact the Licensing Team in order to obtain an exemption from having to display a plate bracket.

And

- (b) Display the Council licence disc at the top left hand corner of the inside front windscreen ensuring that the licence details thereon are visible from both inside and outside the vehicle and in such a way as not to obscure visibility in anyway. The inside disc should display the plate number and expiry date.
5. The vehicle must display authorised Council Door Stickers on the driver's and front passenger's door. No signs, notices, symbols or emblems should be displayed in or on the vehicle without the prior approval of the Licensing Manager. However a sign can be attached to the rear passenger doors: this sign must be no larger than 80cm x 50 cm and should only be used to highlight the Company/Operator for whom the vehicle is working.
6. The Vehicle must be in BLACK in colour or a colour approved by the Council.

## CHANGE OF CIRCUMSTANCES

7. The Proprietor shall, within fourteen days, notify the Council, in writing, of any arrest, pending prosecution, report for summons, any road traffic offence, any conviction or any other offence in his/her regard during the period of this licence.
8. The Proprietor shall, within fourteen days, notify the Council in writing of all changes in circumstances affecting this licence, such as: change of address, phone number, taxi operator for whom he/she is working, owner of the vehicle, change of insurance company etc.

9. The Proprietor should inform the Licensing Authority within 4 working days and in writing of any accident or damage to the vehicle and present the vehicle for inspection upon request of a Licensing Officer.

### **RETURN OF PLATE**

10. The Hackney Carriage Licence plate and disc, supplied with this licence, is the property of Newport City Council. The plate should be returned within 14 days after expiry; failure to do so will result in loss of the plate deposit and may result in other action being taken.

### **INSURANCE**

11. The Proprietor shall ensure that a copy of the Insurance Policy or Cover Note is carried in the vehicle at all times. The proprietor shall not use the vehicle, nor permit it to be used as a Hackney Carriage vehicle when there is not in force for the vehicle an appropriate Policy of Insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988 and that the requisite vehicle road tax has been paid for the year. The Proprietor shall produce, when requested, the vehicle registration document and a valid MOT Certificate.

### **SEATING PLAN & LUGGAGE COMPARTMENT**

12. Each passenger shall have direct access to a door without the need to remove or completely fold flat other seating. Where passengers do not have direct access to a door vehicles that have seats that "tilt" forward by a single operation will be permitted by the Council. A clear sign within the vehicle should clearly indicate the location of the handle that operates the tilt forward seat.
13. Hackney Carriages that wish to use the passenger seat for a paying passenger or for gain must have CCTV present in the vehicle and be approved by the Council; separate guidance will be available for proprietors.
14. The vehicle must be capable of carrying no fewer than four passengers and no more than eight.
15. The vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage.
16. Each passenger seat shall be fitted with a seat belt. No seats may be side facing, other than a wheelchair that has been correctly secured in the vehicle, in accordance with vehicle manufacturer's guidelines.
17. The vehicle should not carry children in pushchairs; the pushchair should be folded up and stored. If the vehicle does not have the correct child restraint, then the child should be placed on the rear seat only. Children under 3 years old may travel unrestrained, but instead held in an adult's arms/lap. Children aged 3 years old or over must use an adult seat belt as in accordance with Road Traffic Act. (Further details can be found on)

[http://www.dft.gov.uk/think/focusareas/children/childincar?page=Advice&whoareyou\\_id=](http://www.dft.gov.uk/think/focusareas/children/childincar?page=Advice&whoareyou_id=)

## **ALTERATION OF VEHICLE**

18. No alteration to the manufacturer's specification for the vehicle including a change of or additional fuel type shall be carried out except with the prior written approval of the Council.

## **TINTED WINDOWS**

19. The front windscreen and front windows must have a visible light transmission (VLT) of not less than 75 per cent and all other windows must not be tinted to the extent that passengers cannot be seen from outside the vehicle.

## **VEHICLE TESTS**

20. Hackney Carriages will be tested once every year until 5 years old. Hackney Carriage over 5 years' old will be tested every 6 month following issue of a 12 month/yearly licence. Licence holders are permitted to book the vehicle in for testing up to 28 days prior to the 6 monthly test.
21. If a vehicle fails the Council's vehicle test or a MOT the vehicle cannot be used as a Hackney Carriage until such time the vehicle is re-examined and passes the Council test or MOT.

## **VEHICLE EQUIPMENT**

22. The vehicle must carry the following equipment:
  - a. A spare wheel suitable for immediate use and which is properly maintained. If the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have certain technology may be exempt from this condition at the discretion of the Council (E.g. vehicle is fitted with run-flat tyres).
  - b. A jack and tools for changing the wheels.
  - c. A ramp, or ramps, for the loading of a wheelchair and passenger must be available at all times for use at the nearside rear passenger door. An adequate locking device shall be fitted to ensure that the ramp(s) do not slip, splay apart or tilt when in use. Provision shall be made for the ramps to be stored safely in the vehicle when not in use. The duties for proprietor / driver:
    - Are to transport the passenger while in the wheelchair;
    - not to make any additional charge for doing so;
    - if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
    - to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
    - to give the passenger such mobility assistance as is reasonably required.

Unless the driver holds an Exemption certificate as defined under Equality Act 2010.

Any auxiliary equipment that is fitted to a vehicle shall not impede the driver in any way, or hinder his/her view, or impede, or cause hazard to passengers or other road users.

## **ADVERTISING**

23. Advertisements are only permitted on the interior of purpose built Hackney Carriages on the underside of the tip-up seats and across the bulkhead above the dividing glass partition. The permitted sizes are as follows:

- bulkhead 60cm x 8 cm
- tip up seat 33cm x 30.5cm.

No advertisement may be placed on the dividing glass partition other than notices approved by the Council, for example the tariff card.

## **AUDIO, VIDEO & RECORDING SYSTEMS**

24. No audio, video or recording systems which were not installed when the vehicle was manufactured shall be installed or operated in the vehicle without complying with the Council CCTV guidance.

## **NO SMOKING IN VEHICLE**

25. No smoking is permitted in the vehicle by either the driver or passengers. The vehicle should comply with the “smoke free” regulations as stated in the Health Act 2006. The vehicle must display ‘no-smoking’ signs in a prominent position. The sign should include the international red ‘no smoking’ symbol.

## **METERS AND FARES**

26. The vehicle must be fitted with a taxi meter which must comply with the Measuring Instruments (Taximeters) Regulations 2006. The taxi meter shall:

- a. show the fare recorded on the taxi meter in clearly legible figures, and the word ‘FARE’ shall be clearly displayed so as to apply to such figures;
- b. The meter should be set in accordance with the Council’s Table contrary of Hackney Carriage fares, unless the Proprietor wishes to have a lower tariff. In this case the Proprietor must display the Council Tariff alongside a Proprietor’s Tariff Card. In such circumstances the Proprietor’s Tariff Card must clearly state that the Proprietor does not charge the maximum Council taxi rates. A copy of the Proprietor’s Card should be given to the Council for its own records.

27. The fare tariff must be fixed in such a position so that the fare to be charged is visible to all passengers within the vehicle at all times and the figures shall be illuminated for this purpose. In the case of Hackney Carriage vehicles that have safety shields, the fare tariff should be displayed in the rear compartment of the vehicle.

28. The Proprietor of the hackney carriage shall ensure that there is a receipt book available in the vehicle at all times and a receipt should be provided at the passenger’s request.

## **LOST PROPERTY**

29. The proprietor or driver of a Hackney Carriage shall take all reasonable steps to return any property that has been left in his vehicle to the rightful owner and in any case must take any found property to Newport Central Police Station within 24 hours.

30. **Environmental Condition**

- **New Hackney Carriage licences** will only be granted on vehicles that meet Euro 5 Standard.
- **Transfer of Hackney Carriage licences** will only be granted on vehicles that meet Euro 5 standard.
- **Replacement of Hackney Carriage licences.** An existing vehicle licence holder (a proprietor that has held a current licence before introduction of the policy and continued to renew this licence) may change the vehicle on that licence if the vehicle meets minimum Euro 4 standards. Vehicle licences granted after the introduction of the policy will only be granted to replace vehicles that meet Euro 5 standard.

31. The holder of every Hackney Carriage licence shall comply with the provisions relating to Hackney Carriages contained in the following legislation:

- Town Police Clauses Act 1847
- Part II Local Government (Miscellaneous Provisions) Act 1976
- Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment.
- Equality Act 2010.
- Health Act 2006

## Appendix D

# PRIVATE HIRE VEHICLE LICENCE CONDITIONS

A Private Hire vehicle proprietor is an Owner or part-Owner of a vehicle, or where a vehicle is subject to a hiring agreement or hire purchase, the person in possession of the vehicle under the agreement. A Private Hire vehicle proprietor requires a Private Hire vehicle licence from Newport City Council for each vehicle used for Private Hire. The vehicle can only operate under a Newport City Council Operator's Licence.

Licences can be obtained by making a full application to the Council. Applicants must submit an application for every vehicle for which a licence is required.

## SPECIFICATION

1. The Proprietor shall ensure that the vehicle and all its fittings and equipment and at all times when the vehicle is in use or available for hire kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles Construction and Use Regulations) shall be fully complied with.
  - a) The vehicle shall have no evident signs of previous significant accident damage. The paint work shall be of a professional finish over the whole of the vehicle's bodywork.
  - b) The bodywork shall have no significant signs of corrosion. Corrosion includes visible rust and signs of rust by virtue of the paintwork being blistered etc.
  - c) Bodywork damage cannot be patched-up or fixed with 'Gaffer Tape' etc. (Although the quarter light windows can be affixed by Gaffer Tape in the interest of prevention of crime and wing mirrors can be taped if the mirror has been vandalised, but the mirror should be fixed before any future Council tests.)
  - d) All parts of the passenger compartment shall be kept clean and free of any damage, which may otherwise affect its suitability for the carriage of passengers.
  - e) Where seat covers are used they shall be properly affixed to the seat so as not to become loose during use. They shall be kept clean and devoid of damage of any kind.
  - f) An adequate heating and ventilation system shall be provided for the driver and the passengers alike.
  - g) A window on either side of the passenger compartment shall be capable of being opened easily by passengers when seated.
2. No material alteration or change to the specification, design, condition or appearance of the vehicle shall be made without prior approval of the Licensing Manager.

3. The vehicle must comply with British and European Vehicle Regulations, be type approved to the standard of M1 Whole-Vehicle , M1 (Low volume) and be unaltered since, it received type-approval.
4. Private Hire vehicle can be any colour unless the vehicle is a “Purposed Built” vehicle; these types of vehicles are not permitted to be black / dark blue / dark grey or any other colour that could be confused with ‘black’.

### **PLATES, SIGNS, ADVERTISING AND LIVERY**

5. The Private Hire Vehicle Licence plate must be displayed externally, adjacent to the rear bumper and securely attached to the vehicle with the use of a plate bracket provided by the Council. The only exception for not displaying the plate is when the bracket breaches the Road Traffic Act. In this case proprietors must contact the Licensing Team to seek exemption from having to display a bracket.
6. The licence disc must be displayed at the top left hand corner of the inside front windscreen in such a way as to obscure the driver’s visibility ensuring that the licence details thereon are visible from both inside and outside the vehicle.
7. The vehicle must display authorised Council door stickers on the driver’s and the front passenger doors. (The only exception is when Private Hire Vehicles are used in connection with a wedding or a funeral, they are then permitted to cover up the Council Door stickers with a magnetic cover and no other advertising is permitted on the vehicle including company logos).
8. No signs, notices, symbols or emblems shall be displayed in or on the vehicle without the approval of the Licensing Manager. However, a sign can be attached to the rear passengers’ doors: this sign must be no larger than 80cm x 50cm and should only be used to highlight the operator for whom the vehicle is working.

### **CHANGE OF CIRCUMSTANCES**

9. The Proprietor shall, within fourteen days, notify the Council, in writing, of any conviction, arrest, or caution imposed on him/her during the period of this licence.
10. The Proprietor shall, within fourteen days, notify the Council, in writing, of all changes in circumstances affecting this licence, such as change of address or change of Private Hire Operator etc.
11. The Proprietor should inform the Licensing Authority within 4 working days and in writing of any accident or damage to the vehicle.

### **RETURN OF PLATE**

12. The Private Hire Licence plate and disc supplied with the licence is the property of Newport City Council. The plate should be returned within 7 days after expiry. Failure to do so will result in loss of the plate deposit and could result in other action being taken.

### **INSURANCE**

13. The Proprietor shall ensure that a copy of the Insurance Policy or Cover Note is carried in the vehicle at all times. The proprietor shall not use the vehicle, nor permit it to be

used, as a Private Hire vehicle when there is not in force for the vehicle a Policy of Insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for hire or reward. The proprietor shall produce when requested the vehicle registration document, a valid MOT certificate and shall ensure that the vehicle's road tax has been paid for the year.

## SEATING PLAN AND LUGGAGE COMPARTMENT

14. The vehicle must be capable of carrying no fewer than four passengers and no more than eight. Cars must have a back seat width (when measured in a continuous line from edge to edge) of at least 1220mm (48 inches).
15. Larger vehicles (MPV, minibus, or people mover types) must have sufficient doors of sufficient size to allow passengers to get in and out quickly and safely. Where exit from the rear seats in vehicles equipped with three rows of seats requires operation of a tip seat mechanism, passengers must be able to exit from either side of the vehicle and the tip seats at either end of the middle row must be capable of independent operation. Where a vehicle is equipped with pop-up, or auxiliary seats intended for occasional use only, those seats must not be included in the licensed capacity of the vehicle. Where the vehicle configuration requires a whole bench seat to slide and/or tip for access/egress to the rear seats, the rear seats should not be included in the seating capacity and should be removed to avoid pressure from passengers to carry numbers in excess of the licensed capacity.
16. The vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage. For this reason certain models of **small "family hatchback"** vehicles will not be considered for a licence unless they are an estate model and able to carry a reasonable amount of luggage, for example prams, wheelchair and luggage.
17. Each passenger seat shall be fitted with a seat belt. No seats may be side facing, other than a wheelchair that has been correctly secured in the vehicle and in accordance with vehicle manufacturer's guidelines.
18. The vehicle should not carry children in pushchairs; the pushchair should be folded up and stored. If the vehicle does not have the correct child restraint then the child should be placed on the rear seat only. Children under 3 years old may travel unrestrained and instead should be held in an adult's arms/lap. Children aged 3 years old or over must use an adult seat belt as in accordance with Road Traffic Act. (Further details can be found on

[www.dft.gov.uk/think/focusareas/children/childincar?page=Advice&whoareyou\\_id=](http://www.dft.gov.uk/think/focusareas/children/childincar?page=Advice&whoareyou_id=)

## ALTERATION OF VEHICLE

19. No alteration to the manufacturer's specification for the vehicle including a change of or additional fuel type shall be carried out except with the prior written approval of the Council.

## **TINTED WINDOWS**

20. The front windscreen and front windows must have a visible light transmission (VLT) of not less than 75%. Only vehicle manufacture tints are permitted on the rear vehicle windows.

## **VEHICLE TESTS**

21. Private Hire Vehicles will be tested once every year until 5 years old. Private Hire Vehicles over 5 years' old but below 10 years will be tested at the 6 month anniversary of yearly licence.
22. If a vehicle fails a Council Vehicle Plating Test or a MOT the vehicle should not be used as a Private Hire Vehicle until such time the vehicle passes the Council test or MOT.

## **VEHICLE EQUIPMENT**

23. The vehicle must carry the following equipment:
  - a. a spare wheel suitable for immediate use and which is properly maintained. If the spare wheel is of the temporary space-saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary. Vehicles that have certain technology may be exempt from this condition at the discretion of the Council.
  - b. a jack and tools for changing the wheels.
  - c. any auxiliary equipment that is fitted to a vehicle shall not impede the driver in any way, or hinder his/her view, or impede, or cause hazard to passengers or other road users.

## **AUDIO, VIDEO OR SURVEILLANCE SYSTEMS**

24. No audio, video or recording systems which were not installed when the vehicle was manufactured shall be installed or operated in the vehicle without informing the council in writing.

## **NO SMOKING IN VEHICLES**

25. No smoking is permitted in the vehicle by either the driver or passengers. The vehicle should comply with the "smoke free" regulations as stated in the Health Act 2006.

## **METERS AND FARES**

26. The vehicle is not required to have a meter but if a meter is installed it must comply with The Measuring Instruments (Taximeters) Regulations 2006. The meter shall:
  - a) show the fare recorded on the taxi meter in clearly legible figures, and the word 'FARE' shall be clearly displayed so as to apply to such figures;
  - b) the meter should be set in accordance with the Operator's Tariff.
27. The fare card must be fixed in such a position in order that the fare to be charged is clearly visible to all passengers within the vehicle at all times, and the figures shall be illuminated for this purpose.

28. The Proprietor of the Private Hire Vehicle must ensure that he/she has a receipt book available in the vehicle at all times and a receipt should be provided at the passenger's request.

### **LOST PROPERTY**

29. The proprietor or driver of a Private Hire Vehicle shall take all reasonable steps to return any property that has been left in his vehicle to the rightful owner and in any case must take any found property to Newport Central Police Station within 48 hours.

### **30. Environment policy**

- **New Private Hire Vehicle licences** will only be granted on vehicles that meet Euro 5 Standard.
- **Transfer of Private Hire Vehicles licences** will only be granted on vehicles that meet Euro 5 standard.
- **Replacement of Private Hire Vehicle.** An existing vehicle licence holder (a proprietor that has held a current licence before introduction of the policy and continued to renew this licence) may change the vehicle on that licence if the vehicle meets minimum Euro 4 standards. Vehicle licences granted after the introduction of the policy will only be granted to replace vehicles that meet Euro 5 standard.

### **LEGISLATION**

31. The holder of every Private Hire licence shall comply with the provisions relating to the licensing of Private Hire Vehicles contained in the following legislation:
- Town Police Clauses Act 1847,
  - Part II Local Government (Miscellaneous Provisions) Act 1976 ,
  - Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment;
  - Equality Act 2010,
  - Health Act 2006

## **POLICY ON SPECIAL EVENT VEHICLE: INCLUDING LIMOUSINES, WHEELCHAIR & PRESTIGE TYPE VEHICLES**

This element of the Policy only applies to Private Hire Vehicles.

1. For the purpose of this Policy, a 'special event vehicle' shall mean a vehicle that is used for a particular occasion or occasions of a restricted nature e.g. transport to parties and is not a conventional vehicle used for standard Private Hire work.
2. Examples of vehicles that may fall within the 'Special Event' category are stretch limousines, classic cars, vehicle that has fewer than four seats or have wheelchair provisions for example vehicle that have rear operated lifts etc. Proprietors of prestige type vehicles licensed as private hire vehicles or private hire vehicles used in special circumstances may seek the permission of the Authority to waive conditions of their licence relating to the display of licence plates, door stickers and driver badges.
3. This element of the Policy does not apply in relation to vehicles which are used exclusively in connection with weddings and funerals and as such are exempt from Private Hire Licensing.
4. The General Licence Conditions for Private Hire Vehicles will not normally allow for special event vehicles to be licensed for a number of reasons including the style and design of the vehicle and "classic" cars failing to meet admission standards.
5. Any special event vehicle that has not been type approved, which does not meet the requirements of the Construction and Use Regulations or which otherwise would not meet the standard Private Hire vehicle conditions may apply to be licensed by seeking a variation or exemption from some of the standard conditions which would otherwise apply.
6. Each vehicle will be considered and assessed by **Licensing Manager** on its merit taking account of:
  - the overall condition of the vehicle
  - the number of passengers for which it is required to be licensed and
  - The specific criteria from which an exemption is sought.
  - Type of wheelchair access (for example rear lift operating vehicles)
  - Type of Work or Contract the vehicle will be used for.
  - The Council's primary consideration will always be the safety and comfort of the travelling public.

### **LIMOUSINE CONDITIONS**

The following set of conditions will be attached to all stretched limousines:

1. Limousines are permitted to be Left or Right Hand Drive.
2. The majority of stretched limousines are imported from the U.S.A and are left hand drive. The Department for Transport has recommended that Councils should not

refuse to licence limousines simply because they have characteristics which contravene their existing Policy, i.e. left hand drive. Limousines with sideways facing seating will be permitted.

3. A main characteristic of stretched limousines is their sideways facing bench seats. In line with the Department for Transport's guidance outlined above, the Council will consider the suitability of limousines with sideways seating for Licensing. The vehicle must have a seat belt available for every travelling passenger.
4. Limousines will not be required to display any Council livery but will be required to display the Council's private hire plate. (The plate serves to distinguish Private Hire Vehicles from ordinary saloon cars and Hackney Carriage vehicles and to make them clearly identifiable to the public. However, the naturally distinctive appearance of stretched limousines means that they are very unlikely to be confused with a Hackney Carriage or a private-use vehicle).
5. Limousines with heavily tinted glass in the rear offside/nearside windows will be considered for Licensing. However, heavily tinted glass in the driver cockpit would remain prohibited in line with legal requirements. It is recognised that the privacy provided by tinted glass in the passenger compartment is a central characteristic of a limousine. However, glass in the driver cockpit must satisfy the standards within the Road Vehicles (Construction and Use) Regulations 1986 as amended.
6. Limousines will be required to hold a valid Single Vehicle Approval (SVA) Certificate or an IVA certificate. (The SVA or IVA test comprises a visual examination of a vehicle and certifies its safety and roadworthiness).
7. The limousine must be fitted with tyres that meet with both the size and weight specification. (Given the increased weight of the vehicle, tyres of the correct weight and size rating must be used at all times).
8. Any seats in the driver's compartment shall not be used to carry passengers. (This is to ensure that passengers are not carried in the front of the vehicle in order to improve driver and passenger safety).
9. In any advertisement publicising any limousine service, the Operator must state that the vehicle is only licensed to carry up to a maximum of 8 passengers. This is in order to inform customers of the maximum carrying capacity of the vehicle).
10. Alcoholic drinks provided in the vehicle shall be under the terms of an appropriate licence issued under the Licensing Act 2003 which relates to the sale and supply of alcohol. In order to comply with alcohol licensing requirements and safeguard public safety bottles of alcohol shall be placed in a secure place and should be removed when any passenger is under 18 years old. Any glassware in the vehicle must be made of either shatterproof glass or plastic, (safeguard public safety).
11. The driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the passengers in the vehicle. (This is in order to safeguard child passengers from viewing unsuitable material).

12. If the limousine parks to provide some form of regulated entertainment for its passengers, a licence must be in place in accordance with the requirements of the Licensing Act 2003.
13. Any vehicle that has been constructed or adapted to seat more than eight passengers cannot be licensed as a Private Hire vehicle.
14. Due to the individual nature of a Limousine vehicle it will inevitably give rise to issues that would not apply to conventional Private Hire Vehicles and, therefore, it will be necessary to consider whether special conditions should be included on any licence. The Licensing Manager will determine any such additional special conditions. If the proprietor is not satisfied with the proposed conditions, the matter will be heard and determined by the Licensing Panel.

### **“PRESTIGE” TYPE VEHICLES CONDITIONS**

15. Prestige Vehicles that wish to be exempt from the requirements that they be plated and display side stickers will have to comply with all Private Hire Conditions other than Conditions relating to the plate and side stickers (Livery).
16. No cash work can be undertaken by the vehicle unless the vehicle is booked at least 1 hour before the commencement of the journey or the operator has a written contract with particular business(es) or person.
17. No meter is permitted in the vehicle (unless integrated).
18. Vehicles must be under 7 years old though older vehicles will be considered by the Licensing Manager, and this predominately will permit older vintage cars or unique cars to be granted a licence.
19. Vehicle must be of a standard of comfort and be equipped to a level equal to or above that of luxury model vehicles such as Mercedes Benz E or S Class, BMW 5 and 7 Series, Lexus GS or LS, Audi A6, A8, Range Rover, Jaguar XF, XJ, Tesla, Maserati Ghibli, Quattro Porte, VW Phantom, Volvo S/V90, etc. (Higher specification executive-type saloon and MPV cars from other manufacturers may also be considered for example Mercedes Vito).
20. An “executive” window plate must be displayed at all times in the front windscreen of the vehicle.
21. No advertising is permitted on or in the vehicle at any time.
22. The driver of the vehicle must be appropriately dressed for formal occasion wearing a formal suit (jacket, trousers or skirt) and formal shoes. No casual wear shall be permitted to be worn by the driver.
23. The individual nature of a special event vehicle will inevitably give rise to issues that would not apply to conventional Private Hire Vehicles and, therefore, it will be necessary to consider whether any special conditions should be included on a

licence. The Licensing Manager will determine any such special conditions. If the proprietor is not satisfied with the proposed conditions, the matter will be heard and determined by the Licensing Panel.

**It should be noted that Proprietors / Operators found to be breaching the above conditions will be stripped of “executive” status for period of 12 months by the Licensing Manager and the vehicle will be suspended until such time as the vehicle(s) complies with Private Hire Vehicle Conditions.**

## PRIVATE HIRE OPERATOR'S CONDITIONS

1. The holder of a Private Hire operator's licence shall comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
2. The Operator shall:
  - a. Provide a prompt, efficient and reliable service to members of the public at all reasonable times.
  - b. Ensure that his/her Office Staff behave in a civil and orderly manner at all times
  - c. Ensure that when a vehicle has been hired it arrives punctually at the appointed place, unless delayed by unforeseen circumstances.
  - d. Ensure that premise provided for the purpose of hiring or waiting are kept clean, adequately lit, heated and ventilated.
  - e. Ensure that any 'Waiting Area' provided has adequate seating facilitates and, if such are provided, that any telephone facilities are in good working order.
  - f. The Operator shall notify the Authority in writing of any change affecting this licence, including any change of address (including any address from which he/she operates or otherwise conducts his/her business), which takes place during the currency of the licence. Such notice shall be given, in writing, within 14 days of the change to the Licensing Section.
  - g. The Operator shall within 14 days of the occurrence of any arrest, report for summons for any offence, or any conviction, notify the Licensing Authority in writing the details of such occurrence. If the operator is a company or partnership, this requirement shall apply to any of its Directors or Partners.
  - h. The Operator shall only dispatch a licensed vehicle that fully complies with Licence vehicle conditions.
  - i. The Operator shall bring to the attention of all drivers their legal obligations regarding the use of seatbelts both by adults and children.
  - J. The Operator shall in so far as possible ensure that Private Hire Vehicles under their specific control meet general conditions of roadworthiness required of a licensed vehicle whereas the driver of the vehicle responsible shall at all times have this responsibility. Any Operator who knowingly operates a defective vehicle shall be liable for enforcement action.
  - K. The Operator shall ensure that a certificate of motor insurance pursuant to Section 143 of the Road Traffic Act 1988 exists for every Private Hire vehicle used under his/her Operator Licence in respect of the carriage of passengers for hire or reward. Where individual drivers choose to arrange their own motor insurance cover, the Operator must examine the insurance for such drivers on a frequent basis to ensure lawful requirements have been met.

- L. If the Operator has premises to which the public have access in connection with the hiring of vehicles, he shall ensure that there is sufficient public liability insurance in force, which indemnifies him/her against any claim for loss, damage or personal injury by any person using those premises.
- M. To operate a Private Hire Business from a residential dwelling, planning permission for such business use, will normally be required. A Private Hire Operator's licence will not be granted without evidence that either planning permission has been issued in respect of the premises concerned or planning permission is not required in respect of the limited use which is proposed.
- N. The records required to be kept by the operator under Section 52(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book or on a computer or any other recordable device. The records must be kept for a minimum of twelve months. If a book is used, the pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:
- i. the time and date of the booking
  - ii. the name of the hirer
  - iii. the time of the proposed pick up
  - iv. the point of pick up and drop off
  - v. the registration or licence plate number of the vehicle allocated for the booking and the name of the driver.
  - Vi If receiving a sub-contracted booking from another operator, the above must be recorded alongside the following details: The name and the Licensing Authority of the Sub-contracting Operator.
  - vii. If sub-contracting a job, the following details must be recorded: the name of the Operator to whom the job is sub-contracted and the name of their Licensing Authority.
- O. Operators are expected to take seriously their duties with regard to safety of drivers and the safeguarding of the public. To aid in this duty, an operator shall record any customer complaint or concerns raised by either a driver or passenger they receive regarding the attitude or behaviour of a driver or passenger. The Operator is expected to make such records available to an authorised Officer or Police Officer upon request. These records should:
- Be kept securely and remain confidential for a minimum period of 1 year and confidentially destroyed thereafter;
  - Include the name, address and contact number of the complainant;
  - Record the details of the complaint;
  - Record details of the driver to which the complaint relates;
  - Record the action the operator has taken.

- Where 3 or more substantiated complaints are received regarding a particular driver in a rolling 12 month period, the operator shall be expected to notify the Licensing Authority without delay.
- If any complaints/concerns are received regarding sexual or inappropriate words/behaviour by drivers, these complaints must be reported to the Licensing Authority within 2 working days, regardless of the number of previous complaints.
- Operators are also required to keep an incident log for driver's safety. Drivers should be able to log incidents for example: non-payment, racial abuse, physical or verbal abuse by a customer. An Operator should undertake a written risk assessment in light of a barring policy if a passenger is abusive, violent, racist, towards a driver.
- Operators, from time to time, will be given addresses by Gwent Police or Social Services to which that they should not dispatch vehicles or a password system may be put in place with carers or parents of family.
- Operators should have a policy in regard to transporting children under 10 years old without adult supervision during their normal business of provision of Private Hire transport (this excludes School and Social Services contracts which are subject to requirements as determined by those departments).

The Operator shall also keep records of the particulars of all Private Hire vehicles and drivers operated by him, which shall include:

- A copy of the private hire vehicle licence issued by the Council
- A copy of the Private Hire driver's licence or badge issued by the Council together with details of any radio call signals.
- Valid Insurance certificate used by the driver.

All records kept by the operator shall be kept for a period of not less than twelve months following the date of the entry and shall be made available upon request to an Authorised Officer of the Council, Police Officer or any other relevant duly authorised Officer of an Enforcement Agency including HMRC.

- P. The Operator must allow access to the premises identified as the Operator Premises to the Police and Licensing Officers at all times (this includes Operators who operate from a home address.)
- Q. Operators can only dispatch a "Prestige" vehicle only when the booking involves no cash work or the vehicle is booked at least 1 hour before the commencement of the journey or the operator has a written contract with particular business(es) or person.

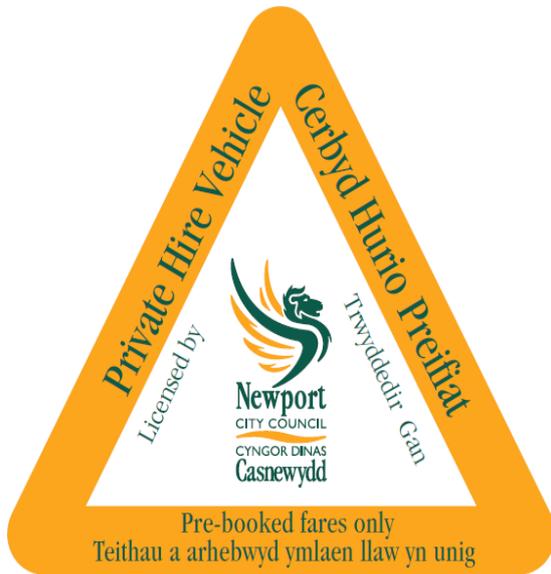
## **LEGISLATION**

The holder of every Private Hire Operator vehicle licence shall comply with the provisions relating to Private Hire vehicles contained in the following legislation:

- Town Police Clauses Act 1847,
- Part II Local Government (Miscellaneous Provisions) Act 1976,
- Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment, Equality Act 2010

## Appendix E

### Newport City Council Private Hire Livery



### Newport Hackney Carriage Livery



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