



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

Approvals/amendments

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Contents

SECTION 1	6
GENERAL	6
1. Introduction	6
2. Disability awareness	7
3. Sexual Exploitation and Sexual inappropriateness.	7
4. Definitions	8
SECTION 2	10
HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE DRIVERS LICENCE	10
1. Applications	10
Additional conditions– hackney carriage drivers	15
Additional conditions – private hire vehicle drivers	16
SECTION 3	17
PRIVATE HIRE OPERATORS	17
1. Application for licences	17
2. Licence conditions	17
3. Vehicles	18
4. Staff	18
5. Required records	19
6. Records of Hiring's.	19
7. Records of Vehicles and Drivers	20
8. Incidents and complaints.	20
9. Sub-Contracting Private Hire Bookings	21
11. Convictions	22
12. Advertising	22
13. Premises	22
SECTION 4	23

PRIVATE HIRE VEHICLES	23
1 Conditions of Application	23
2 Vehicle Age Restriction	25
3 Wheels and Tyres	25
4 Passenger Seating Capacity	26
5 Estate Cars, Multi-Purpose Vehicles & People Carriers	26
6 Vehicle Identification	26
7 Specialist vehicles exemption	27
8 Inspection and Fitness of the Vehicle	27
9 Certificate as to fitness of Vehicle / Exemption	29
10 Fire Extinguishers and First Aid Kits	29
11 Type and Condition of Vehicle	30
12 Transfer of Ownership	31
13 Additional provisions	31
SECTION 5	33
ADDITIONAL CONDITIONS APPLIED TO STRETCHED LIMOUSINES AND NOVELTY VEHICLES USED AS PRIVATE HIRE VEHICLES	33
1 GENERAL	33
2 CONDITIONS	33
SECTION 6	35
HACKNEY CARRIAGE VEHICLE CONDITIONS	35
1 Quantity restrictions	35
2 Conditions of Application	35
3 Technical Standards	36
4 Vehicle Age Restriction	37
5 Wheels and Tyres	38
6 Passenger Seating Capacity	38
7 Estate Cars, Multi-Purpose Vehicles & People Carriers	38
8 Vehicle Identification	38

9	Inspection and Fitness of the Vehicle	39
10	Certificate as to fitness of Vehicle / Exemption	40
11	Fire Extinguishers and First Aid Kits	41
12	Type and Condition of Vehicle	42
13	Transfer of Ownership	43
14	Additional provisions	43
15	Taxi Meter	44
16	Fares	44
17	Retention of Drivers Licences	44
18	Obstruction of Other Drivers	45
19	Refusing to Drive	45
20	Hackney Carriage intended use policy	45
1	Applications for the new grant of a hackney carriage licence	45
2	Applications for the renewal of a hackney carriage licence	45
3	Applications for the transfer of a hackney carriage licence	45
4	Applications for the replacement of a hackney carriage licence	46
5	Reasons for intended use Policy	46

APPENDIX A 47

MOTOR VEHICLES, (WEARING OF SEAT BELTS) REGULATIONS 1993 & 2006 47

APPENDIX B 49

DETERMINING APPLICATIONS FOR LICENCES AND REVIEWS OF EXISTING LICENCES 49

APPENDIX C 51

FITNESS CRITERIA FOR DRIVERS AND OPERATORS 51

1.0	Introduction	51
2.0	General policy	51
3.0	Appeals	52
4.0	Powers	52
5.0	Consideration of disclosed criminal history	53
6.0	Institute of Licensing “Guidance on the suitability of applicants and licensees within the hackney carriage and private hire trades” (the IoL Guidance)	53

APPENDIX D	54
REHABILITATION OF OFFENDERS ACT 1974 AS AMENDED	54
APPENDIX E	56
THE SCHEME OF DELEGATION FOR LICENSING MATTERS	56

SECTION 1 GENERAL

1. Introduction

- 1) This policy was first approved by the council's licensing committee on the 11th October 2012 and became effective on the 1st January 2013. Amendments were approved in July 2014 commencing July 2014, and further amendments were approved in July 2015 coming into effect on 1st October 2015. The amendments to which the current version of this policy relates were approved by the council's licensing committee on the 13th June coming into effect on the 1st October 2019.
- 2) The purpose of the policy is to ensure the provision of public transport by hackney carriages and private hire vehicles to the residents and visitors of Torfaen is; safe, reliable, comfortable, clean, and creates a positive image of the borough.
- 3) Torfaen County Borough Council (The Council) has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, in order to regulate the provision of hackney carriages and private hire vehicles operating in its area, the Borough of Torfaen.
- 4) Vehicles regulated by the above stated legislation and this policy are any passenger carrying vehicle with 8 or less passenger seats. Vehicles with more than 8 passenger seats used for public transport must be licensed by the Traffic Commissioner at the Vehicle and Operator Services Agency (VOSA).
- 5) The council expects all licensed operators, drivers and vehicle proprietors to comply with all national or local legislation regulating the use of motor vehicles on public roads.
- 6) All vehicles, proprietors, drivers and operators of hackney carriages and private hire vehicles must be licensed by the council before they can operate a vehicle as either a hackney carriage or private hire vehicle in the borough of Torfaen. All licences must be issued by Torfaen County Borough Council, and cannot be issued by another council.
- 7) This policy provides guidance, conditions of application, and conditions that licence holders must adhere to when acting in the capacity of a driver, operator or proprietor. The conditions are set out in the relevant sections of this policy for each type of licence.
- 8) Licence holders are required to comply with the terms and conditions of this policy.
- 9) The council will follow the terms and conditions of this policy when making decisions on any licensing matter related to hackney carriage and private hire licensing. However, all decisions must be considered in the light of the current circumstances and, if there are exceptional circumstances, may be referred to the licensing panel who may make a decision not to follow the policy.
- 10) It is a presumption that a licence will be granted where the criteria of this policy and the legislation are met.
- 11) Users of licensed vehicles expect a prompt and reliable service, to be carried in the vehicle in safety, and treated courteously by the driver and/or booking office. They have the right to make complaints about the service they receive to the operator/proprietor and the council's licensing team.

- 12) This policy is subject to change in accordance with any subsequent changes in national legislation that will always take precedent over this policy.
- 13) Errors and omissions excepted.

2. Disability awareness

1) General

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

2) Wheel Chair Accessible Vehicles

The council does not specify the type of vehicle that can be licensed for carrying wheelchair bound passengers. However, the vehicles must be either purpose built or have the required safety certificates for any mechanical equipment or conversion, which includes a VOSA M1/2 approval.

3) Driver training

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

3. Sexual Exploitation and Sexual inappropriateness.

- a) Recent reports into child sexual exploitation have highlighted links with the hackney carriage and private hire trade. The council have had to deal with complaints from hirers of inappropriate behaviour of licence holders.
- b) Torfaen Council takes matters of sexual exploitation and inappropriate behaviour at any time, not just in the course of a licence holders business or employment, very seriously, and will take immediate action to revoke a licence where there is sufficient information to justify that action.
- c) Where any allegation of criminal sexual activity or inappropriate sexual behaviour is received by the Licensing team, this will be dealt with robustly and, where sufficient information is made available, action against that licence holder may result in that licence being revoked.
- d) Licence holders must not make any advances to any hirer in an attempt to procure any special relationship with the hirer or make any suggestive remark that could be construed to be an attempt to gain a special relationship with the hirer.
- e) Drivers, proprietors and operators are in a position where they are in close personal contact with vulnerable adults and children whether they are; young, ill or under the influence of drugs or alcohol. Drivers must ensure that the hirer is taken to a place of safety and not taken advantage of in any way.
- f) All drivers, proprietors and operators (including existing licence holders) will be required to attend a training session, as specified by the council, in relation to their responsibilities and, in particular, in identifying when vulnerable people are in need of protection, and to ensure they are taken to a place of safety and the appropriate reports are made to the a relevant authority.
- g) A reasonable period of time will be given to ALL licence holders, including existing licence holders, to attend this required training. Licence holders who fail or refuse to attend the training will have their licences reviewed, which may result in the licence being suspended until they have attended the training session.

4. **Definitions**

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

- 1) “The Council” means the Torfaen County Borough Council.
- 2) “Authorised Officer” has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976. i.e. any officer of a County Council duly authorised in writing by that Council.
- 3) “Private Hire Vehicle” has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976
- 4) “Hackney Carriage” has the same meaning as in the Town Police Clauses Act 1847 and is the same meaning as ‘Taxi’
- 5) “The Vehicle” means the hackney carriage vehicle or private hire vehicle.

- 6) "The Operator" means a person holding a licence to operate private hire vehicles issued pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976
- 7) "Proprietor" has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976 i.e. the person or persons or body named in this licence as the proprietor of the vehicle and includes a part-proprietor.
- 8) "The Identification Plate" means the plate issued by the Council for the purpose of identifying the vehicle as a hackney carriage or private hire vehicle.
- 9) "Employ" means to use the services of, whether under a contract of service or a contract for services or otherwise, and employee, employer and employed shall be construed accordingly.
- 10) He/his shall also mean to apply to female equivalent, i.e. she/her.

SECTION 2

HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE DRIVERS LICENCE

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

The licence is not transferrable, and is issued for 3 years unless a licensing panel determines otherwise in specific individual cases.

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

1. Applications

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

- 1) Attend a skills and knowledge test including literacy, numeracy and any other test currently or subsequently approved by the council.
- 2) Have completed and submitted to the Council in person an application on the form prescribed by the Council, together with a recent passport style photograph of themselves. No photocopies or persons wearing hats or sunglasses allowed, applicants must write their name on the back of the photo.
- 3) Submit, with the application, any fee that may be demanded by the Council for the issue of the licence or any other advertised fee, e.g. the cost of the criminal records check. If any payment has been made by cheque, which is subsequently dishonoured, the application or subsequent licence automatically becomes invalid for failure to comply with this condition. The fee is for the grant of the licence and is non-refundable once the council has granted the licence. Should the applicant fail to take up the licence once granted, no part of the fee will be refundable to the applicant.
- 4) Be examined by a medical practitioner who has knowledge of the applicant with access to the applicant's medical records, i.e. by their own general practitioner and provide a declaration that the applicant is fit to the current medical requirements approved by the Driver and Vehicle Licensing Agency for vocational drivers to level 2.
- 5) The medical statement shall be renewed every 3 years on renewal of the licence. The medical declaration form will be included in the application pack and reminders will be sent to applicants 3 months before the licence renewal is due to give sufficient time to arrange the medical examination. Application for new or renewals of licences will not be accepted without a current medical statement.
- 6) Regardless of whether such a certificate has been produced, the Council may require the applicant to undergo a medical examination by a Registered Medical Practitioner selected by the Council as to their fitness to be the driver of a Hackney Carriage or Private Hire Vehicle.

- 7) Satisfy the Council that they are a fit and proper person to hold a combined Hackney Carriage/Private Hire Vehicle Drivers licence, this includes disclosure of all criminal convictions, cautions and fixed penalties, including those for driving offences, see the fitness criteria at Appendix C.
- 8) Agree that the council applies to the Disclosure and Barring Service for an enhanced criminal record disclosure certificate. The criminal records check renewal will be a requirement before a new licence or a renewal is granted.
- 9) The application for a new or to renew a licence must be accompanied with a DBS certificate that is less than 3 months old. All drivers are encouraged to sign up to the DBS Update Service on application for the next disclosure certificate.
- 10) The council will send out DBS renewal reminders 3 months before the licence is due for renewal, this will give plenty of time to obtain the certificate prior to the expiry of the licence. Applications for new or renewals of licences will not be accepted without a current DBS certificate which is less than 3 months old.
- 11) In the event that the applicant has already furnished such information to the Council in respect of another licence within the three months immediately preceding their application, this condition shall not apply. Providing that the disclosure from the DBS is enhanced and the enquiry has requested details under the Education Act, 2002, Protection of Children and Vulnerable Adults and other relevant information and is less than 3 months old.
- 12) All applicants that have recently immigrated to the UK or has spent more than 6 months living outside of the UK or EU country must also submit a certificate of good conduct issued by the country of residence in that period when necessary on application or renewal.
- 13) Have attained the age of twenty-one years.
- 14) Be a person who has for the 12 months immediately prior to the date of the application, been the holder of a full driving licence issued by the DVLA, or the DVLNI (Northern Ireland), for that class of vehicle, granted under Part III of the Road Traffic Act, 1972 or Northern Ireland equivalent, authorising them to drive that class of vehicle.
- 15) Produce for examination a current driving licence issued to the applicant under the Road Traffic Act, 1988, a relevant licence issued by the DVLA, DVLNI or EC/EEA Member State (GB counterpart if a licence is held by EC/EEA member state is required). This includes the photo card and counterpart where issued.

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

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

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

- 16) Complete a DVLA Mandate for Release of Information form, allowing the Council access to records held on the applicant by the DVLA. Licence holders will be required to submit a DVLA mandate on renewal, the mandate permits the council to check the applicant's driver's record at any time within 3 years from the date it is signed by the applicant.
- 17) Provide such other information as may be required by the Council and comply with such other condition as the Council may consider reasonably necessary.
- 18) Licences to drive Hackney Carriages & Private Hire Vehicles will normally be issued only to persons who are employed full time for that purpose. However, such licences may be issued to persons acting in a part time capacity, providing the applicant is not in full time employment as a driver in some other sphere of activity such as a bus or transport driver.
- 19) Any licensed Hackney Carriage or Private Hire Vehicle Driver must not accept employment in both capacities on the same day. (Any hours spent in employment, as a Hackney Carriage or Private Hire Vehicle Driver must not conflict with any statutory rest periods required by other transport legislation).

Conditions of licence

Drivers of a hackney carriage and private hire vehicles shall, at all times as appropriate;

- 1) Observe all legislation governing the use of vehicles on roads. This includes the use or misuse of the audible warning instrument (horn), which may only be used for emergencies as specified in the Highway Code, and must not be used to attract customers who are inside premises.
- 2) Comply with any conditions or requirements which are approved by the council.
- 3) Attend required training as directed by the council within a reasonable period that will be stated in the requirement.
- 4) Act in a professional manner towards every person and not behave in a manner that would bring the private hire or hackney carriage trade into disrepute.
- 5) When the vehicle is available or being driven for hire, be clean and respectable in his/her dress (smart / casual) and person,
- 6) Behave in an orderly manner and conduct himself with civility and propriety towards every person seeking to hire, or hiring or being conveyed in the vehicle, and shall take all reasonable steps to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 7) Communicate effectively with the customers to ensure that their requirements are fully understood.
- 8) Ensure that any reasonable request for service made by the customer is provided.
- 9) Not engage in any sexual activity with customers, or make any advance or comment that could be construed to be an attempt to procure any special relationship, sexual or otherwise with the customer.
- 10) Ensure that the hirer/passenger is cared for and must not knowingly put them any position that could put them in any physical or moral danger. Any suspicious behaviour or circumstances must be reported to a relevant authority, e.g. police, children's services or licensing officers.
- 11) Comply the Health Act 2006, which prohibits smoking in any licensed vehicle and, in addition, will not use any electronic or other cigarette substitute whilst in any licenced vehicle.
- 12) Except with the express consent of the hirer, play any radio or sound reproducing instrument in the vehicle other than for communicating with the operator.
- 13) Not cause or permit the noise emitted by a radio equipment or sound reproducing equipment installed in the hackney carriage / private hire vehicle to be a source of nuisance or annoyance to persons whether inside or outside the vehicle.
- 14) When hired to drive to any particular destination, subject to any directions given by the hirer, proceed to that destination by the shortest practicable route.

- 15) Except with the express consent of the hirer, not convey any person other than the hirer in the hackney carriage / private hire vehicle.
- 16) Who has agreed or has been hired to be in attendance with a vehicle at an appointed time and place, unless delayed or prevented by some sufficient cause, punctually attend with the hackney carriage / private hire vehicle at such appointed time and place.
- 17) Where requested by the hirer;
 - a) convey a reasonable quantity of luggage.
 - b) afford reasonable assistance in loading and unloading.
 - c) afford reasonable assistance in removing luggage to or from the entrance of any building, station, house or place at which they may take up or set down such person.
- 18) Not use a mobile phone whilst driving, unless they are able to do so by making use of a hands free kit. (There is an exemption in law for calls to 999 or 112 in a genuine emergency where it would be unsafe or impractical to stop).
- 19) Not permit a hackney carriage / private hire vehicle to carry a greater number of passengers than the number prescribed in the licence. Passengers may not be carried unless they are seated in one of the seats approved on the licence, or a correctly fitted child seat if provided. A baby in arms counts as a passenger.
- 20) Must comply with the seat belt regulations of 1993 and 2006 and ensure that all passengers comply with the regulations. See Appendix A.
- 21) Shall only carry the same number of passengers as there are seat belts. If necessary, additional cars or additional journeys should be used for the trip.
- 22) Shall not conceal either the exterior identification plate or door signs of the hackney carriage / private hire vehicle or the details painted or marked thereon, and will keep the identification plate and door signs in a clean condition.
- 23) Shall, when driving a Hackney Carriage or Private Hire Vehicle, wear or display in a conspicuous position the drivers badge issued to the licensee by the Council.
- 24) The drivers badge shall remain the property of the Council and if the drivers licence, is revoked or suspended, such badge shall be returned by the licensee to the Council following the receipt of a notice issued by the Licensing Authority.
- 25) Notify the Council in writing of any change of his/her address or operator within 7 days of such change taking place.
- 26) Notify the Council in writing of any conviction, caution recorded against him/her by any Court or fixed penalty notice received within 7 days of such conviction or fixed penalty being imposed.
- 27) Immediately notify the council of any change in medical condition that is diagnosed during the period of the licence.
- 28) If requested by the hirer, provide him/her with a written receipt for the fare paid.

- 29) Not demand of the hirer a sum in excess of that agreed between the hirer and the operator or, if the vehicle is fitted with a taxi meter and there has been no such agreement, a fare greater than shown on the taxi meter. If a taxi meter is used, then the driver shall give the hirer opportunity to examine the fare shown at the termination of the journey.
- 30) Upon the request of a police constable or authorised officer of the Council, provide the following information if requested;
 - a) name
 - b) current address
 - c) date of birth
 - d) name and address of the vehicle operator, if different
- 31) produce for inspection their Hackney Carriage/Private Hire Vehicle Drivers Licence, DVLA Driving licence (or equivalent), Certificate of Insurance and if applicable Vehicle Test Certificate either forthwith or in any case before the expiration of 7 days beginning with the day following the date of the request,
 - a) in the case of a request by a police constable, at any police station within the Councils area and which is nominated by the constable when the request is made.
 - b) in the case of a request by an authorised officer, to The Licensing Section, Torfaen County Borough Council, Tŷ Blaen Torfaen, Panteg Way, New Inn, Pontypool, NP4 0LS
 - c) remain at the scene for a sufficient period of time so as to allow the officer to obtain any details of their drivers licence and to carry out an inspection of the vehicle under the powers of the Local Government (Miscellaneous Provisions) Act 1976.
- 32) As required by the Equalities Act 2010, to carry a guide dog or assistance dog belonging to a passenger free of charge, unless the driver has a proven medical condition confirmed in writing by a Medical Practitioner that would preclude such action and has been granted an exemption by the Council.
- 33) Regularly search the hackney carriage / private hire vehicle for any property that may accidentally have been left therein.
- 34) If any property is found in the vehicle, or be found by or handed to him, and not returned to the rightful owner, take it, as soon as possible and in any event within 24 hours, to a Police Station in the district in order to receive instructions from the Police regarding its custody.
- 35) Applications for renewal of a licence should be made in advance to ensure continuity. There is no automatic period of grace. Those failing to renew their licence before the expiry of their existing licence will be required to complete a new application process before the licence is issued.
- 36) Any change in circumstances, which include, but is not limited to; a medical condition or penalty points on a driving licence, breaches in legislation or policy will result in the licence being reviewed; this may result in the licence being suspended or revoked. The policy and procedures are detailed in Determination of applications and reviews of licences.

Additional conditions– hackney carriage drivers

The driver and proprietor of a Hackney Carriage shall observe and perform the following conditions in respect of Hackney Carriages; namely that they shall, at all times as appropriate

- 1) Cause the taxi be fitted with a taxi meter, and for it to be located within the vehicle in accordance with the reasonable instructions of an authorised officer.
- 2) Cause the taxi meter to be maintained in a sound mechanical condition at all times
- 3) Not use or permit to be used a taxi meter that the Council's appointed agent has not sealed, to prevent unauthorised adjustment of the taxi meter.
- 4) Ensure the "FOR HIRE" sign or other illuminated sign is extinguished when the fare commences and the taxi meter brought into operation.
- 5) Ensure that, if a taxi meter is replaced, that the council is notified and a copy of the calibration certificate is submitted to the council immediately.
- 6) Not tamper with, or permit any person to tamper with, any taximeter with which the carriage is provided, with the fitting thereof, or the seals affixed thereto;
- 7) Ensure that the illuminated roof sign is fitted to the vehicle and maintained in good and efficient working order when the vehicle is in use.

Additional conditions – private hire vehicle drivers

The driver shall observe and perform the following conditions:-

- 1) the driver shall not assign or in any way part with the benefit of the licence, which is personal to the licensee;
- 2) the licensee shall not, while driving or in charge of a Private Hire Vehicle;
 - a) tout for or solicit on a road or other public place any person to hire or be carried for hire in a Private Hire Vehicle, or
 - b) cause or procure any other person to tout for or solicit on a road or other public place any person to hire or be carried for hire in a Private Hire Vehicle, or
 - c) accept an offer for the immediate hire of that vehicle while the licensee of that vehicle is on a road or other public place, except where such offer is first communicated to the licensee via a licensed operator by telephone or by apparatus for wireless telegraphy fitted to that vehicle:
- 3) In this condition:
 - a) "Road" means any highway and other road to which the public has access and includes bridges over which a road passes.
 - b) This includes private areas where the public have access which include privately owned car parks e.g. supermarkets, railway stations and bus termini.

SECTION 3 PRIVATE HIRE OPERATORS

Operator's licences are issued for a period of 5 years to an individual(s) or a company, and are not transferrable.

1. Application for licences

- 1) Applicants must complete the application form required by the council, pay the appropriate fee, and provide any other reasonable information that may be requested by the council.
- 2) Operators have to prove that they are a fit and proper person to hold such a licence; this will include the need to have a current basic disclosure criminal certificate to accompany any new or renewal of the licence.
- 3) The DBS certificate must be less than 3 months old. A licence will not be granted unless the certificate is produced at the time of application. If the operator is a licensed driver with Torfaen this section will not apply if the DBS certificate with the drivers licence is up to date.
- 4) Persons who are declared bankrupt and have not been discharged are prohibited from running a business and therefore will not be granted an operator's licence. Licence holders must notify the council of any financial proceeding being taken against the company or individual(s).
- 5) The operator shall ensure that all his premises have (where planning legislation requires it) a valid planning permission authorising the carrying out of his business from the premises.
- 6) Operators must have a dedicated telephone line for bookings; this must be a fixed land line. However single owner operators may also use a mobile telephone with the written agreement of the council.

2. Licence conditions

Private Hire Operators shall, at all times as appropriate;

- 1) Comply with any conditions or requirements which are approved by the council.
- 2) Notify the Council in writing of any change of address (including home address, business address or booking office or any other address from which he operates or otherwise conducts business as an operator) during the period of the licence prior to the change taking place.
- 3) Provide a prompt efficient and reliable service to members of the public at all times.
- 4) Without prejudice to the generality of the previous condition, the operator shall, in particular:-

- a) ensure that when a private hire vehicle has been hired, to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place;
- b) keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purposes of booking or waiting;
- c) ensure that any waiting area provided by the operator has adequate toilet and seating facilities;
- d) ensure that they have sufficient public liability insurance to cover visitors to their premises. The certificate of insurance must be clearly displayed at the premises.
- e) ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.

3. Vehicles

The operator shall:

- 1) Ensure that all vehicles operated by him/her comply with all legislation;
- 2) Immediately notify the Council of any damage to vehicles, howsoever occurring as soon as he becomes aware of such damage;
- 3) Ensure that all vehicles operated by him are roadworthy, clean and comply with the conditions of the council's policy and all relevant legislation, in particular; the Road Traffic Act 1988, and the Road Vehicles Construction and Use Regulations 1986 (as amended).
- 4) Notify the Council in writing of the operation of any additional private hire vehicle, or termination of the operation of any private hire vehicle within 3 working days;
- 5) Ensure that every private hire vehicle is covered by a valid Certificate of Insurance or covering note. The schedule must show that the proprietor of the said vehicle is insured for the carriage of passengers for hire or reward in accordance with Part VI of the Road Traffic Act 1988. Any other drivers of the vehicle must be shown as additional named drivers. Fleet policies are also accepted;
- 6) Ensure that all licensed vehicles working for their company have the correct signage fully complying with the conditions set by the Council.

4. Staff

The operator shall;

- 1) Ensure that all drivers are licensed by the council and shall
 - a. at all times retain in his possession the licence issued by the council of any driver engaged by him and
 - b. ensure that such driver is in possession, at all times, of his driver's badge issued by the Council;

- 2) Notify the Council in writing of the employment of a private hire vehicle driver and the termination of employment of any such driver within 3 working days.
- 3) Ensure all staff who works as a receptionist/dispatcher are given training to ensure they are aware of the conditions imposed on the operator, and that they treat all customers with respect and deal with them in a professional manner. If there is any dispute with a caller this must be recorded in the complaints record.

5. Required records

The operator shall ensure that;

- 1) All records are kept securely to ensure personal data cannot be used by any unauthorised person or for any illegal purpose. The provisions of the Data Protection Act 1998 and the General Data Protection Regulation 2018 (GDPR) will apply to any stored personal data.
- 2) All records kept by the operator shall be preserved for a period of not less than 12 months following the date of the last entry;
- 3) The above records are kept on a suitable computer with printout facilities, or a suitable book or ledger the pages of which must be numbered consecutively.
- 4) All records are made available for inspection by any authorised officer of the council or by any police constable.

6. Records of Hiring's.

When the operator accepts the hiring he shall:

- 1) Immediately prior to the commencement of the journey, enter all the details of the hirer legibly in ink or other durable form the following particulars of every booking of a private hire vehicle invited or accepted by him;
 - a) the time and date of booking;
 - b) the name and contact details of hirer;
 - c) how the booking was made (i.e. by telephone, in person or otherwise)
 - d) the time of the pick-up;
 - e) the point of pick-up;
 - f) the destination;
 - g) identification of the vehicle/driver allocated for the booking;
 - h) the agreed fare, if not calculated by means of a taxi meter in the allocated vehicle;
 - i) remarks (including details of any sub-contract).

7. Records of Vehicles and Drivers

The operator will keep records of all drivers and vehicles operating on his licence and:

- 1) shall show the following particulars with respect to each private hire vehicle operated by him:-
 - a. the registration number of each vehicle;
 - b. the number of the identification plate provided by the Council under Section 48(5) of the 1976 Act;
 - c. the name and address of all the proprietors and drivers of the vehicle;
 - d. the number of passengers permitted to be carried in the vehicle;
 - e. any radio call sign used in connection with the vehicle;
 - f. the date on which he commenced operating the vehicle and if appropriate the date on which he ceased operating the vehicle;
 - g. details of the Certificate of Motor Insurance covering the vehicle, including the date the insurance expires;
 - h. details of the current vehicle test and the date the test expires.
 - i. remarks (if any).
- 2) With respect to each driver operated by him; the Operator will record
 - a. The name and address of the driver;
 - b. The DVLA driving licence details
 - c. The Council's PH & HC driving licence number;
 - d. The date employment commenced;
 - e. The date employment terminated
- 3) The operator must notify the council of any change either by the addition or removal of any vehicle or driver in the above records, as soon as practicable or in any case within 2 working days of the change.

8. Incidents and complaints.

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

- 1) preserve all records for a period of not less than 12 months following the date of the last entry;

- 2) keep the records on a suitable computer with printout facilities in addition to or instead of a suitable book or ledger, the pages of which must be numbered consecutively;
- 3) make all records available for inspection by any authorised Officer of the Council or by any Police Constable;
- 4) on receipt of any complaint from a member of the public (whether received personally, on the telephone or in writing) relating to any one or more of the following;
 - a) the operator's business premises;
 - b) his facilities within his premises;
 - c) the state or cleanliness of any of his vehicles or drivers;
 - d) the terms and conditions of any contract or purported contract of hire;
 - e) any other matter relating to any contract or purported contract for hire;
 - f) any other matter relating to his business.
- 5) With due diligence investigate any complaint received and notify the complainant in writing of the outcome of his investigations and any measures he proposes to take to remedy the complaint.
- 6) Notify the complainant of his right to forward the complaint to the Council if the complaint is not resolved;
- 7) Enter the following particulars of every complaint received by him in the complaints book or ledger;
 - a) The date and time the complaint was received;
 - b) the name and address of the complainant;
 - c) how the complaint was made (i.e. personally by telephone or in writing);
 - d) the details of any relevant booking relating to the complaint;
 - e) remarks (if any);
 - f) any measures taken to remedy the complaint
- 8) Comply with all reasonable directions of an authorised officer investigating a complaint received by the council.

9. 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. The operator must keep a record of all such sub-contracts either to another operator or from another operator and that record must include the:

- a) Date/time of booking

- b) Details of booking,
- c) name of hirer
- d) Details of operator sub-contract to/from
- e) Details of the driver/car completing the hiring

11. Convictions

The operator shall disclose to the Council in writing, within seven days, details of any convictions, cautions and fixed penalties imposed on him (or if the operator is a Company or Partnership, or the Secretary or any of the Directors or Partners) during the period of the licence.

12. Advertising

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

13. Premises

- 1) If the premises are used for customers to visit to make bookings and wait for the journey, then they must provide a clean and comfortable waiting area with access to toilet facilities that are kept clean.
- 2) The Health Act 2006 designates any substantially enclosed premises that are open to the public or a workplace as smoke free. Therefore, smoking is not permitted in any operators premises.

14. Taxi meters

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

SECTION 4 PRIVATE HIRE VEHICLES

1 Conditions of Application

- 1) Before a Licence is issued in respect of a Private Hire Vehicle, the applicant being the proprietor of the vehicle, must;
 - a) Complete and submit to the Council an application on the form prescribed and supplied by the Council.
 - b) Submit the appropriate fee together with the vehicle's V5 Registration Document or Bill of Sale, valid Certificate of Insurance covering Hire & Reward and where required a valid Test certificate for the vehicle.
 - c) The appropriate fee must be paid upon submission of the licence application, and is not refundable. If payment is made by cheque, which is subsequently dishonoured, the licence automatically becomes invalid for failure to comply with this condition until the fee is paid in full.

- 2) Applicants must satisfy the Council that;
 - a) the vehicle is registered under the Vehicles (Excise) Act 1949 or the Vehicles (Excise) Act 1994, and any subsequent amendments thereto, and there is in force in relation to the use of the vehicle a policy of Insurance, which satisfies the requirements of Part IV of the Road Traffic Act 1988.
 - b) the vehicle is in a satisfactory and safe condition for the carriage of passengers. The vehicle shall be suitable in type and design for use as a private hire vehicle.
 - c) any vehicle will be required to be assessed by an authorised officer before an initial application is approved.
 - d) the applicant will be required to present the vehicle for inspection at one of the Authority's appointed garages.
 - e) the vehicle is suitable in type, size and design as a Private Hire Vehicle and complies with the following requirements;
 - I. the vehicle must not be black or any colour that can be taken to be black or resemble a hackney carriage, e.g. a London TX cab.
 - II. be a car fitted with four road wheels, have at least four doors and be right hand drive
 - III. the vehicle is a saloon, estate, M.P.V. or minibus with 8 passenger seats or less, and not be a large 4x4 type vehicle, e.g. Range Rover or Mitsubishi Shogun size vehicles, smaller 4x4's may be considered e.g. if they are derived from family saloon type vehicles.
 - f) stretched limousines that are licensed by the authority must meet additional conditions that are published separately.

- g) be of adequate seating capacity and head and knee room etc. as detailed in technical standards below.
- h) the vehicle must be so constructed and the doors open sufficiently wide as to allow easy access to and egress from the vehicle and cause no inconvenience to passengers.
- i) in the case of a vehicle that carries more than 4 passengers, no seat should be required to be moved to allow any passenger to enter or egress the vehicle.
- j) vehicles that have 3 rows of seats, e.g. people carriers, where seats have to be tilted or moved to give access to the rear row of seats will not be licensed unless one of the seats in the middle row is removed to allow unimpeded access to the rear seats.
- k) any seat removed to facilitate entry as per j) above must have the mounting secured to prevent the seat from being easily re-fitted into the vehicle.
- l) where access to the rear seats is made through a gap between the seats in the middle row the gap must be a minimum of 30 cm to allow clear access to the rear seats.

3) Technical Standards

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

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

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

The following technical standards will apply.

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

discretion of the Licensing Officer will be used to assess the suitability of the knee space available to fare paying passengers.

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

2. Vehicle Age Restriction

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

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

3. Wheels and Tyres

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

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

4. Passenger Seating Capacity

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

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

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

6. Vehicle Identification

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

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

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

7 Specialist vehicles exemption

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

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

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

8 Inspection and Fitness of the Vehicle

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

- 5) All vehicles over 1 year from their date of first registration must be tested at council approved garages, which are Vehicle and Operator Service Agency (VOSA) approved for vehicle inspection, at intervals specified in the table below;

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

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

9 Certificate as to fitness of Vehicle / Exemption

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

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

10 Fire Extinguishers and First Aid Kits

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

- g) Twelve assorted safety pins
 - h) One pair rustless blunt-ended scissors; and
 - i) 5 pairs of sterile disposable gloves.
- 4) The first aid kit should be kept in the front of the cab or in the boot of the said vehicle and be readily accessible to the driver.
 - 5) The first aid kit will have permanently printed on it the council private hire or hackney licence number of the vehicle for which it is used.

PLEASE NOTE:

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

11 Type and Condition of Vehicle

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

- 1) Any significant alteration in the design of the vehicle whether to the machinery or to the body, shall be reported to the Council, who may require the proprietor to submit the vehicle for further examination, which will be at the proprietors expense.
- 2) Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction and Use) Regulations.
- 3) They shall not cause or suffer or permit to be conveyed in the vehicle a greater number of persons, exclusive of the driver, than the number of persons specified in the licence.
- 4) Any radio/cassette/CD or other entertainment sound system fitted in the vehicle may only be used with the consent of the hirer of the vehicle. When operated, the system shall not cause annoyance to other persons by reason of loud continuance or repeated use.
- 5) The interior of all vehicles must be kept clean and hygienic and, if the interior is soiled, the vehicle must be taken out of service and cleaned before it is returned to service. It is the responsibility of the driver to ensure that the vehicle is clean before picking up the next passenger.
- 6) The Health Act 2006 prohibits smoking in enclosed places. All licensed vehicles are designated as an enclosed public space and, therefore, it is unlawful for any person to smoke in a licensed vehicle at any time, including any time when it is not being used for hire. Prescribed No Smoking signs must be displayed.

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

12 Transfer of Ownership

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

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

13 Additional provisions

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

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

SECTION 5

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

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

1. GENERAL

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

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

2. CONDITIONS

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

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

SECTION 6 HACKNEY CARRIAGE VEHICLE CONDITIONS

1 Quantity restrictions

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

2 Conditions of Application

- 1) Before a Licence is issued in respect of a hackney carriage, the applicant being the proprietor of the vehicle, must;
 - a) Complete and submit to the Council an application on the form prescribed and supplied by the Council.
 - b) Submit the appropriate fee together with the vehicle's V5 Registration Document or Bill of Sale, valid Certificate of Insurance covering Public Hire & Reward and where required a valid Test certificate for the vehicle.
 - c) The appropriate fee must be paid upon submission of the licence application, and is not refundable. If payment is made by cheque, which is subsequently dishonoured, the licence automatically becomes invalid for failure to comply with this condition until the fee is paid in full.
- 2) Applicants must Satisfy the Council that;
 - a) The vehicle is black
 - b) The vehicle is registered under the Vehicles (Excise) Act 1949 or the Vehicles (Excise) Act 1994, and any subsequent amendments thereto, and there is in force in relation to the use of the vehicle a policy of Insurance, which satisfies the requirements of Part IV of the Road Traffic Act 1988.
 - c) The vehicle is in a satisfactory and safe condition for the carriage of passengers. The vehicle shall be suitable in type and design for use as a hackney carriage.
 - d) Any vehicle that accommodates more than 4 passengers will be required to be assessed by an authorised officer before an application is submitted.

- e) The applicant will be required to present the vehicle for inspection at one of the Authority's appointed garages.
- f) The vehicle is suitable in type, size and design as a hackney carriage and complies with the following requirements;
 - I. be a car fitted with four road wheels, have at least four doors and be right hand drive
 - II. the vehicle is a saloon, estate, M.P.V. or minibus with 8 passenger seats or less, and not be a large 4x4 type vehicle, e.g. Range Rover or Mitsubishi Shogun size vehicles, smaller 4x4's may be considered e.g. if they are derived from family saloon type vehicles.
 - III. be of adequate seating capacity and head and knee room etc. as detailed in technical standards below.
 - IV. The vehicle must be so constructed and the doors open sufficiently wide as to allow easy access to and egress from the vehicle and cause no inconvenience to passengers.
 - V. In the case of a vehicle that carries more than 4 passengers no seat should be required to be moved to allow any passenger to enter or egress the vehicle.
 - VI. Vehicles that have 3 rows of seats, e.g. people carriers where seats have to be tilted or moved to give access to the rear row of seats will not be licensed unless one of the seats in the middle row is removed to allow unimpeded access to the rear seats.
 - VII. The seat removed to facilitate entry as per VI. above must have the mounting secured to prevent the seat from being easily re-fitted into the vehicle.
 - VIII. Where access to the rear seats is made through a gap between the seats in the middle row the gap must be a minimum of 30 cm to allow clear access to the rear seats.

3 Technical Standards

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

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

- 2) **Height (Inside)** - From the top of the seat cushions to the roof at the lowest part must not be less than 81.3 cms (32 inches).

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

4 Vehicle Age Restriction

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

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

5 Wheels and Tyres

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

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

6 Passenger Seating Capacity

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

7 Estate Cars, Multi-Purpose Vehicles & People Carriers

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

8 Vehicle Identification

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

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

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

9 Inspection and Fitness of the Vehicle

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

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

8 years and over	3 tests per year	4 months
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- 6) The number of tests required will be determined by the age of the vehicle at the time the licence is renewed, even if the vehicle subsequently reaches a higher age limit within the term of the licence.
- 7) The licence holder will be required to pay for the appropriate number of tests. The cost of any additional tests or failures will be the responsibility of the vehicle's proprietor.
- 8) All vehicles must be tested in accordance with the standards required by the testing facility authorised by the Authority. A valid exemption certificate issued by the testing station will be required to support any application for a licence.
- 9) All vehicles must be presented at the garage in a thoroughly clean condition inside and out.
- 10) The proprietor shall permit an authorised officer of the Council or a Police Constable to inspect and test a vehicle at all reasonable times.
- 11) If the officer is not satisfied as to the fitness or condition of the Hackney Carriage Vehicle, they shall give notice in writing to the proprietor suspending the vehicle licence, and giving instructions to make the vehicle available for further inspection and testing at such reasonable time and place as specified in the notice.
- 12) The vehicle licence being suspended until such times as the officer is so satisfied that the fitness or condition of the vehicle is satisfactory.
- 13) If the officer is not so satisfied before the expiration of a period of two months of the date of the notice, the licence shall be revoked.
- 14) The proprietor may appeal against the Council's decision under this section under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976
- 15) A vehicle, which has failed the vehicle inspection test, must be submitted for a re-test to the vehicle examiner approved and appointed by the Council on the defects found within 10 working days from the date of the test. The vehicle must not be used for hire during the interim period

10 Certificate as to fitness of Vehicle / Exemption

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

- 4) If licence holders are requested by the police to produce an MoT certificate, the certificate and licence issued by the Council should be produced instead.

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

11 Fire Extinguishers and First Aid Kits

- 1) The council does not recommend that untrained people try to extinguish a fire, but must instead ensure that the vehicle is evacuated, the area around the vehicle cleared to a safe distance, and the fire service is called to tackle the fire. Personal safety is a priority over minimising damage to the vehicle.
- 2) It is no longer a requirement of the council's policy to carry fire extinguishers in licensed vehicles. However, if a fire extinguisher is carried in a vehicle, it must comply with the following criteria to ensure it is safe for use.
 - a) Any extinguisher must be a 1 kg minimum capacity dry powder or other suitable type extinguisher having a minimum ABC rating as defined in BSEN 3 British Standard for portable fire extinguishers.
 - b) Any fire extinguishers must be serviced and tested as required by the latest fire safety regulations by a competent engineer and should only be used by a competent operator.
- 3) First aid kits must be carried in all licensed vehicles, and these must conform to the standards and contain items listed in Schedule 7 of the Road Vehicles (Construction and Use) Regulations 1986. The first aid kit must not carry such items, namely; aspirin or other tablets or creams, tourniquets, iodine and sal volatile. The first aid kit should be protected against contamination and the kit should contain at least the following:-
 - a) Ten antiseptic wipes, foil packed;
 - b) One conforming disposable bandage (not less than 7.5cm wide)
 - c) Two triangular bandages
 - d) One packet of 24 assorted adhesive dressings;
 - e) Three large sterile un-medicated ambulance dressings (not less than 15.0cm x 20.0cm);
 - f) Two sterile eye pads, with attachments;
 - g) Twelve assorted safety pins
 - h) One pair rustless blunt-ended scissors; and
 - i) 5 pairs of sterile disposable gloves.
- 4) The first aid kit should be kept in the front of the cab or in the boot of the said vehicle and be readily accessible to the driver.
- 5) The first aid kit will have permanently printed on it the council private hire or hackney licence number of the vehicle for which it is used.

PLEASE NOTE:

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

12 Type and Condition of Vehicle

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

- 1) Any significant alteration in the design of the vehicle whether to the machinery or to the body, shall be reported to the Council, who may require the proprietor to submit the vehicle for further examination, which will be at the proprietors expense.
- 2) Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction and Use) Regulations.
- 3) Vehicle proprietors and drivers shall not cause or suffer or permit to be conveyed in the vehicle a greater number of persons, exclusive of the driver, than the number of persons specified in the licence.
- 4) Any radio/cassette/CD or other entertainment sound system fitted in the vehicle may only be used with the consent of the hirer of the vehicle. When operated the system shall not cause annoyance to other persons by reason of loud continuance or repeated use.
- 5) The interior of all vehicles must be kept clean and hygienic and, if the interior is soiled, the vehicle must be taken out of service and cleaned before it is returned to service. It is the responsibility of the driver to ensure that the vehicle is clean before picking up the next passenger.
- 6) The Health Act 2006 prohibits smoking in enclosed places, all licensed vehicles are designated as an enclosed public space and therefore it is unlawful for any person to smoke in a licensed vehicle at any time, including any time when it is not being used for hire. Prescribed No Smoking signs must be displayed. The smoking of electronic cigarettes or similar is also prohibited in licenced vehicles.
- 7) The exterior of the vehicle must be kept in good condition and any damage must be repaired to the original vehicle's standard, no vehicle may be used with damaged bodywork without the written approval of a licensing officer. The paintwork must be maintained in good condition as if the vehicle was new and the exterior of the vehicle must be kept clean at all times.

- 8) The proprietor of the hackney carriage in respect of which a vehicle licence has been granted by the Council shall inform the Council in writing of any change of address as soon as is practicable and in any event within seven days.

13 Transfer of Ownership

Please also refer to, vehicle age restriction at 4. Above.

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

14 Additional provisions

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

15 Taxi Meter

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

- 1) The taximeter shall be fitted with an appropriate device bearing the words “FOR HIRE” on each side thereof in plain letters, at least two inches in height, of the appropriate device, so that the words are conveniently legible.
- 2) The taximeter shall not begin operation until the hirer’s journey has commenced.
- 3) Prior to hiring, no fares shall be recorded on the face of the meter.
- 4) The taximeter must be programmed with the current tariff as approved by the Council and, when the taximeter is in action, there shall be recorded on the face of the meter, in clearly legible figures, a fare not exceeding the rate of fare which the proprietor or driver is so authorised to charge.
- 5) The word “FARE” or similar, shall be printed on the face of the taximeter in plain letters so as to clearly apply to the fare recorded thereon.
- 6) The taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring.
- 7) The taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them, except by breaking, damaging or permanently displacing the seals or other appliances.
- 8) The proprietor of a Hackney Carriage shall cause the current table of fares, fixed by the Council, to be exhibited inside the carriage in clearly distinguishable letters and figures, together with a notice displaying the limitations on the fare rates and charges to be made.
- 9) The proprietor of a Hackney Carriage shall not tamper with, or permit any person to tamper with, any taximeter with which the carriage is provided, with the fitting thereof or with the seals affixed thereto.
- 10) Calibration certificates must be produced to the council when issued.

16 Fares

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

17 Retention of Drivers Licences

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

18 Obstruction of Other Drivers

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

19 Refusing to Drive

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

20 Hackney Carriage intended use policy

1 Applications for the new grant of a hackney carriage licence

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

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

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

2 Applications for the renewal of a hackney carriage licence

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

3 Applications for the transfer of a hackney carriage licence

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

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

If the new proprietor of a licensed hackney carriage is found to have no intention to ply for hire entirely or predominantly within Torfaen County Borough Council and/or intends to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate remotely from the administrative area of Torfaen County Borough Council there will be a presumption that his licence will be revoked. Each case will however be decided on its merits.

4 Applications for the replacement of a hackney carriage licence

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

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

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

5 Reasons for intended use Policy

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

Unless there has been a change in the proprietor's intentions with regard to plying for hire within the administrative area of Torfaen County Borough Council, there should be no reason why he/she should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained the first licence on the expressed intention of plying for hire entirely or predominantly within the administrative area of Torfaen County Borough Council, and who on application to replace that vehicle with another discloses that he/she no longer so intends, effectively engages the presumption against grant that is mentioned earlier.

APPENDIX A MOTOR VEHICLES, (WEARING OF SEAT BELTS) REGULATIONS 1993 & 2006

Under these regulations, all occupants of a vehicle, as described, must wear a seat belt if provided. Taxi drivers may claim exemption if plying for, or actually carrying passengers on hire, but this will not apply whilst driving to and from his home or office, (base), nor whilst not plying for hire. Private Hire Drivers may only claim exemption when a fare paying passenger is actually in the vehicle and not at any other time.

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

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

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

More Passengers than Seat Belts

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

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

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

Legal Penalties

The legal penalties are set out in the above legislation.

APPENDIX B

DETERMINING APPLICATIONS FOR LICENCES AND REVIEWS OF EXISTING LICENCES

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

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

Section 60. Vehicle Licence

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefore under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:—

- a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of
- c) this Part of this Act by the operator or driver; or
- d) any other reasonable cause.

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

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

Section 61. Drivers licence

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefore under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

that he has since the grant of the licence—

- a) been convicted of an offence involving dishonesty, indecency or violence; or
- b) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
- c) any other reasonable cause.

(2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act. If any person without

reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine.

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

Section 62. Operators licences

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

- a) any offence under, or non-compliance with, the provisions of this Part of this Act;
- b) any conduct on the part of the operator which appears to the district council to
- c) render him unfit to hold an operator's licence;
- d) any material change since the licence was granted in any of the circumstances of the
- e) operator on the basis of which the licence was granted; or
- f) any other reasonable cause.

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

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

Appeals

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

APPENDIX C

Fitness Criteria for Drivers and Operators

1.0 Introduction

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

2.0 General policy

- 2.1 Each case will be decided on its own merits.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- a. Remain free of conviction for an appropriate period (as set out in the IoL Guidance); and
- b. Show evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).

2.3 For the purposes of this Policy, “other matters to be considered” may include but are not limited to the following:

- a) Criminal / motoring convictions;
- b) Court Martial;
- c) Cautions;
- d) Fixed penalty notices or other penalty notices;
- e) Anti-social behaviour orders or other similar orders;
- f) Breach of licensing conditions;
- g) Formal Warnings or Reprimands;
- h) Charges or matters awaiting trial;
- i) Fitness and propriety.

2.4 Where an applicant has a conviction(s) or other matter(s) to be considered for a criminal offence, the council cannot review the merits of the conviction or other matter.

2.5 Where an applicant / licence holder has a conviction or other matter to be considered for an offence of aiding, abetting, attempting, conspiring, counselling, procuring, causing, permitting or inciting any of the criminal or motoring convictions / matters specified in this guidance, they will be considered relevant for the substantive matter.

3.0 Appeals

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

4.0 Powers

4.1 Powers to grant driver / operator licences are contained within Section 51, Section 55 and Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act).

4.2 Powers to suspend, revoke or refuse to renew a driver’s licence are contained within Section 61 of the Act, where the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

4.3 Section 61 (2B) allows the Licensing Authority, if it appears that in the interests of public safety, to suspend or revoke a driver’s licence with immediate effect. A Decision Notice explaining why this decision has been taken will be issued to the driver and will have effect when the notice is given to the driver. The driver may appeal this decision but may not drive during the appeal period.

4.4 Section 62 of the Act allows the Licensing Authority to suspend, revoke or refuse to renew an operator’s licence if the applicant/licence holder has been convicted of an offence under or non-compliance with the provisions of Part II of the Act; or grounds of any conduct on the part of the operator which appears to the Council to render him unfit , or due to any material change

since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted or any other reasonable cause.

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

5.0 Consideration of disclosed criminal history

5.1 Under the provisions of Sections 51, 55, and 59, of the Act, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a driver / operator licence is a 'fit and proper' person to hold such a licence. However, if an applicant / licence holder has any matters to be considered, the Licensing Authority may take into account:

:

- How relevant the offence(s) are to the licence being applied for;
- How serious the offence(s) were;
- When the offence(s) were committed;
- The date of conviction and age of applicant at time of conviction;
- Sentence imposed by the court;
- Whether they form part of a pattern of offending;
- Any other factors that might be relevant.

6.0 Institute of Licensing “Guidance on the suitability of applicants and licensees within the hackney carriage and private hire trades” (the IoL Guidance)

6.1 In determining the fitness or otherwise of a potential or existing driver, the Council will have regard to the provisions of the Institute of Licensing “Guidance on the suitability of applicants and licensees within the hackney carriage and private hire trades” (the IoL Guidance – see attached document).

6.2 This guidance supersedes previous guidance, and will come into force on the 1st October 2019.

6.3 The Council has determined that there will be no “grandfather rights”. The IoL guidance will therefore apply for any new or renewal application received on or after 1st October 2019, or where a complaint or intelligence received makes a review of the suitability of a licence holder appropriate.

APPENDIX D REHABILITATION OF OFFENDERS ACT 1974 AS AMENDED

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

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

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

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

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

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

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

Motoring Offences

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

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

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

APPENDIX E

THE SCHEME OF DELEGATION FOR LICENSING MATTERS

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

MATTERS TO BE DETERMINED BY THE LICENSING COMMITTEE:

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

MATTERS TO BE DETERMINED BY LICENSING PANELS:

All licences/permits/consents/registrations and reviews

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

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



April 2018

 Institute of **Licensing**

Produced by the Institute of Licensing in partnership with:

 **LLG**
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

Contents

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

Foreword

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

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

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

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

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

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

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

Philip Kolvin QC
Cornerstone Barristers

April 2018

Chapter 1: Introduction

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

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

considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².

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

² [2007] 1 WLR 2067

Chapter 2: Offenders and Offending - An Overview

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

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

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

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

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

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

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

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

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

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

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

Risk of re-offending:

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

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

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

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

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

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

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

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

offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”¹⁹.

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

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

Chapter 3: 'Taxi' Licensing Overview

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

Taxi Drivers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority³². A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person³³.

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

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

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

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

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

Vehicle Proprietors

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

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other

³⁵ See s57(1)(c) of the 1976 Act.

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

unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”³⁷

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

Chapter 4: Guidance on Determination

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

Pre-application requirements

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

Vehicles:

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

Drivers:

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

Operators:

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

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

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

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

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

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

that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

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

Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in

the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

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

Crimes resulting in death

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

Exploitation

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

Offences involving violence

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

Possession of a weapon

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

Sex and indecency offences

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

Dishonesty

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

Drugs

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

Discrimination

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

Motoring convictions

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

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

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

elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

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

Hackney carriage and private hire offences

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

Vehicle use offences

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

Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.

- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.
- 4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

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

Acknowledgements

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

The core project group comprised:

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

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

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- Louise Scott Garner
- Jenna Parker, Institute of Licensing

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