

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

Approvals/amendments

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**Licensing Team, Planning and Public Protection Service,
Tŷ Blaen Torfaen, Panteg Way, New Inn, Pontypool, NP4 0LS**

Telephone: 01633 647284/647286

Email: licensing@torfaen.gov.uk

Website: www.torfaen.gov.uk/licensing

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SECTION 1 GENERAL

1. Introduction

- 1) This policy was 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. Further amended in 2015 and approved in July 2015 coming into effect in October 2015.
- 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 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.
- 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.
- c) Drivers and operators are expected to have knowledge in safe methods of conveying disabled persons, wheelchair bound or not. 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.

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 inappropriateness of any person during 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) Any licence holder where information is received by the licensing team that has any allegation of criminal sexual activity or inappropriate sexual behaviour will be dealt with robustly and where sufficient information is made available will take action against that licence holder which 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 in relation to their responsibilities and in particular in identifying when vulnerable people are in need of protection and how to ensure they are taken to a place of safety and the appropriate reports are made to the a relevant authority.
- g) A training package is being produced by the council and details will be advertised when it becomes available. Once commenced a reasonable period of time will be given to licence holders to attend the 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 a 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. The medical statement shall be renewed every 5 years up to the age of 65, thereafter every 3 years on renewal. The medical declaration form will be included in the application pack.
- 5) 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.
- 6) 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 convictions policy at Appendix C.

- 7) 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.
- 8) 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.
- 9) 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..
- 10) 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.
- 11) 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.
- 12) Have attained the age of twenty-one years.
- 13) 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.
- 14) 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. In addition we will require applicants who hold EC/EEA driving licences to have a GB counterpart.
- 15) GB counterparts can be obtained free of charge from the DVLA on submission of form D9 which can be downloaded from;
www.dvla.gov.uk/media/pdf/forms/d9.pdf
The DVLA advises that it takes approximately 3 weeks from receipt of application to issue a GB counterpart.
- 16) 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.
- 17) 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 annually on renewal.
- 18) Provide such other information as may be required by the Council and comply with such other condition as the Council may consider reasonably necessary.
- 19) 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.

20) 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;

- 1) shall at all times 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 not used to attract customers who are inside premises.
- 2) Shall comply with any conditions or requirements which are approved by the council.
- 3) shall at all times 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.
- 4) shall at all times when the vehicle is available or being driven for hire be clean and respectable in his/her dress (smart / casual) and person,
- 5) shall 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.
- 6) shall communicate effectively with the customers to ensure that their requirements are fully understood.
- 7) shall ensure that any reasonable request for service made by the customer is provided.
- 8) shall 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.
- 9) Shall at all times 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.
- 10) shall comply with The Health Act 2006 which prohibits smoking in any licensed vehicle.
- 11) shall not, 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.
- 12) shall at no time 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.
- 13) Shall 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.
- 14) shall not, except with the express consent of the hirer, convey any person other than the hirer in the hackney carriage / private hire vehicle.
- 15) who has agreed or has been hired to be in attendance with a vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with the hackney carriage / private hire vehicle at such appointed time and place.

- 16) shall when 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 it to or from the entrance of any building, station, house or place at which they may take up or set down such person.
- 17) must 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).
- 18) Must 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.
- 19) Must comply with the seat belt regulations of 1993 and 2006 and ensure that all passengers comply with the regulations. See Appendix A.
- 20) Shall only carry the same number of passengers as there are seat belts. If necessary, use additional cars or make additional journeys for the trip.
- 21) 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.
- 22) 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.
- 23) 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.
- 24) Shall notify the Council in writing of any change of his/her address or operator within 7 days of such change taking place.
- 25) Shall 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.
- 26) shall immediately notify the council of any change in medical condition that is diagnosed during the period of the licence.
- 27) shall, if requested by the hirer, provide him/her with a written receipt for the fare paid.
- 28) Shall 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.

- 29) Will 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
- 30) 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.
- 31) Are 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. .
- 32) Shall regularly search the hackney carriage / private hire vehicle for any property that may accidentally have been left therein.
- 33) Shall, 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.
- 34) 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.
- 35) 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.

2. 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;

- 1) shall 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) shall cause the taxi meter to be maintained in a sound mechanical condition at all times

- 3) shall 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) shall ensure the "FOR HIRE" sign or other illuminated sign is extinguished when the fare commences and the taxi meter brought into operation.
- 5) undertakes to 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) shall 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) shall at all times 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.

3. 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 standard Disclosure and Barring Service (DBS) criminal certificate to accompany any new or renewal of the licence. The council will send reminders to renew 3 months prior to the expiry of the licence.
- 3) The 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) Applicants are encouraged to sign up to the DBS Update Service when they next renew the certificate or licence, whichever is the earliest date.
- 5) 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).
- 6) 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.
- 7) 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

- 1) Shall comply with any conditions or requirements which are approved by the council.
- 2) The operator shall notify the Council in writing of any change in his address (including his home address, his business address or booking office or any other address from which he operates or otherwise conducts his business as an operator) during the period of the licence prior to the change taking place.
- 3) The operator shall 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) Operators must 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) 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 at all times retain in his possession the licence issued by the council of any driver engaged by him and ensure that such driver is in possession, at all times, of his driver's badge issued by the Council;
- 2) shall 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.

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 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.

5) Records of Hiring's.

When the operator accepts the hiring he shall 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).

6) Records of Vehicles and Drivers

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

7) With respect to each driver operated by him;

- 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
- 8) 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.

6. Complaints

The operator shall keep a record of all complaints, 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.

7. Sub-Contracting Private Hire Bookings

From October 2015 operators will be 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 following:

- 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

8. 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.

9. 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.

10. 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.

11. 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 that accommodates more than 4 passengers will be required to be assessed by an authorised officer before an application is submitted.
- 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 must be licensed by the authority and in addition to the conditions in this policy are subject to 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) The 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

- a) 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.

- b) 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).
- c) 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).
- d) 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.
- e) 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.
- f) 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).

- g) 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.
- h) **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 the date of manufacture.

- 1) **New vehicle licences** will only be granted on vehicles that are less than 5 years old. A new licence will not be granted on vehicles over 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 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 a of high standard.
- 6) **Vehicles older than 10 years** will not be re-licensed.
- 7) **Older vehicles** may be licenced 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 a of high standard.

3. Wheels and Tyres

- 1) 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 are; run flat tyres, self-inflation aerosols, self-seal tyres and space-saver wheels.
- 2) 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 vehicle's 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) If you do not return the plate to the Licensing Section, you could be liable to prosecution and a charge for the plate may be taken against you. Any authorised officer of the Council or Police Constable is entitled to remove and retain the said plate.
- 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.
- 2) the vehicle is not used on day to day hire business and is only used for specialist contract work or airport transfer.
- 3) 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. This standard is higher than the standard MOT. The council holds a certificate of compliance granted by V.O.S.A. and has approved garages that must be used for the inspection of vehicles.
- 2) Section 50 (LG (MP) Act 1976) provides that a District Council can require a proprietor to present the same Hackney Carriage or Private Hire Vehicle for inspection and testing for a minimum of one test up to a maximum of three separate tests during any one period of twelve months.
- 3) A certificate of exemption is issued by the testing station and is valid for the period specified in the table below from the date of the test, or the anniversary of the previous test if the test is done within a month prior to the expiry of the previous test.
- 4) Vehicles which are less than 12 months from their date of first registration will not require testing.
- 5) All vehicles over 1 year, from their date of first registration must be tested at council approved garages, which are Vehicle and Operator Service Agency (VOSA) approved for vehicle inspection, at intervals specified in the table below;

Vehicle Age	Testing Schedule	Test Exemption Certificate Duration
0 -1 year	No test required	N/A

Over 1 year and under 8 years.	2 tests per year	6 months
8 years and over	3 tests per year	4 months

- 6) The number of tests required will be determined by the age of the vehicle at the time the licence is renewed, even if the vehicle subsequently reaches 8 years of age within the term of the licence.
- 7) The licence holder will be required to pay the council for the appropriate number of tests at the time the vehicle is licenced or re-licenced. 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) 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, 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

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) On their own they are of no legal significance. They are not a substitute for an M.O.T. Certificate, the exemption only being available when the vehicle has a current licence issued by the council. You must register your vehicle as exempt with the DVLA.
- 3) In order to register your vehicle with the DVLA as exempt from the requirement to hold an MoT certificate you must complete the V112 Declaration of exemption from MoT testing issued by the DVLA. This form can only be submitted when you are taxing your vehicle.

- 4) If licence holders are requested to produce an MoT certificate by the police, the certificate and licence issued by the Council should be produced instead.
- 5) 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) All licensed vehicles must be fitted with an approved Fire Extinguisher securely fixed in the vehicle and readily accessible to the driver.
- 2) The 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.
- 3) Fire extinguishers must be serviced and tested as required by the latest fire safety regulations by a BAFE approved engineer.
- 4) First aid kits must be carried in all licensed vehicles which 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 unmedicated 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.
- 5) 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.
- 6) The fire extinguisher and 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 :

- 7) 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 those persons seek their own advice.
- 8) Self-employed drivers must be made aware of the legal requirement of the need for such equipment within their vehicles, in order for them to render first aid upon themselves whilst at work under the guidelines of 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. Licensed drivers should be made 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) 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, vehicle age restriction at **2**. Above.

- 1) Where a licensed vehicle is sold to another person who wishes to use it as a Private Hire, then it is possible to 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.

13. Additional provisions

- 1) In the event of a road traffic accident involving a Private Hire Vehicle causing 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 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 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. And apply to section 1 below.
- 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 of 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 in paragraphs 1), 2) and 3) below, where the vehicle is constructed or adapted to seat up to 8 passengers not including the driver.

- 1) A "stretched limousine", is a saloon type vehicle that has undergone an increase in length by extending the wheelbase after manufacture.
- 2) An "American stretched limousine" is a stretched limousine imported from the USA and typically will have been manufactured originally by Lincoln (Ford) or Cadillac.
- 3) 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.
- 4) 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.
- 5) Limousines and novelty vehicles which are not used for normal day to day private hire work will be exempted the need to display plates and door signs on the outside of the vehicle, 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 wheelchair accessible vehicles.
- 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

- a) 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.

- b) 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).
- c) 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).

- d) 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 axis, and will be measured from the outermost point of seat cushion.
- e) 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.
- f) **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).
- g) 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.
- h) **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.

3. 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. A new licence will not be granted on vehicles over 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 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 a of high standard.
- 6) **Vehicles older than 10 years** will not be re-licensed.
- 7) **Older vehicles** may be licenced 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 a of high standard. .

4. 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 are; 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.

5. 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.

6. 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.

7. 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 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
- 9) A licensed vehicle must display the plate issued by the Council at all times (Section 48 LG(MP)A).
- 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) If you do not return the plate to the Licensing Section, you could be liable to prosecution and a charge for the plate may be taken against you. Any authorised officer of the Council or Police Constable is entitled to remove and retain the said plate.
- 13) The loss or damage of a plate must be reported immediately to the Council.

8. Inspection and Fitness of the Vehicle

- 1) All vehicles must reach the standard required by the council this standard 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 8 years of age within the term of the licence.

- 7) The licence holder will be required to pay the council for the appropriate number of tests at the time the vehicle is licenced or re-licenced. 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) 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, 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

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) On their own they are of no legal significance. They are not a substitute for an M.O.T. Certificate, the exemption only being available when the vehicle has a current licence issued by the council. You must register your vehicle as exempt with the DVLA.
- 3) In order to register your vehicle with the DVLA as exempt from the requirement to hold an MoT certificate you must complete the V112 Declaration of exemption from MoT testing issued by the DVLA. This form can only be submitted when you are taxing your vehicle.
- 4) If licence holders are requested to produce an MoT certificate by the police, the certificate and licence issued by the Council should be produced instead.
- 5) **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) All licensed vehicles must be fitted with an approved Fire Extinguisher securely fixed in the vehicle and readily accessible to the driver.
- 2) The 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.
- 3) Fire extinguishers must be serviced and tested as required by the latest fire safety regulations by a BAFE approved engineer.
- 4) First aid kits must be carried in all licensed vehicles which 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:-
 - j) Ten antiseptic wipes, foil packed;
 - k) One conforming disposable bandage (not less than 7.5cm wide)
 - l) Two triangular bandages
 - m) One packet of 24 assorted adhesive dressings;
 - n) Three large sterile unmedicated ambulance dressings (not less than 15.0cm x 20.0cm);
 - o) Two sterile eye pads, with attachments;
 - p) Twelve assorted safety pins
 - q) One pair rustless blunt-ended scissors; and
 - r) 5 pairs of sterile disposable gloves.
- 5) 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.
- 6) The fire extinguisher and 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 :

- 7) 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 those persons seek their own advice.
- 8) Self-employed drivers must be made aware of the legal requirement of the need for such equipment within their vehicles, in order for them to render first aid upon themselves whilst at work under the guidelines of 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. Licensed drivers should be made 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) 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 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.

12. Transfer of Ownership

Please also refer to, vehicle age restriction at **3**. Above.

- 1) Where a licensed vehicle is sold to another person who wishes to use it as a hackney carriage, then it is possible to 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.

13. Additional provisions

- 1) In the event of a road traffic accident involving a hackney carriage causing 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).

14. Taxi Meter

The vehicle must be provided with a taximeter 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.

15. 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).

16. 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).

17. 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)

18. 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).

19. Hackney Carriage intended use policy

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.

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.

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.

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 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, 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.

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].

The Council is required to register the name of the new proprietor of a vehicle. It seems to the Council also to open up an obvious route to circumvent the decision of the High Court, unless precautionary steps are taken. It is intended to put the Council in a position to respond responsibly to the transfer of a Torfaen County Borough Council hackney carriage into the name of someone who operates outside the Torfaen County Borough Council or remotely from it.

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.

However, for your safety the council recommend 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 (ie 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

If you are convicted of failing to wear a seat belt as a driver or passenger, you could face a fine of up to £500.

As a driver, if you are convicted of failing to ensure that a child passenger is using an appropriate child restraint or wearing a seat belt according to the legal requirements described above, you could face a fine of up to £500.

In addition to the legal penalties, failure to wear a seat belt or failure to ensure that a child passenger uses an appropriate child restraint or wears a seat belt according to the legal requirements described above, could affect any claims against your motor insurance cover.

You could also face civil proceedings for damages, if (for example) you failed to safely carry someone else's child.

But, of course, the most serious penalty of all could be that you or a passenger loses their life!

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 summarised at 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 councils current scheme of delegation in its constitution for the decision making process.

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 below); 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. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

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 Violence

6.1 Licensed drivers have close regular contact with the public. A serious view will be taken with those who have a conviction(s) or other matter(s) to be considered involving violence. An application will normally be refused or existing licence suspended or revoked if the applicant / licence holder has a conviction for an offence that involved the loss of life.

6.2 In other cases anyone of a violent disposition is unlikely to be licensed until **at least 3 years** free of such conviction(s) or other matter(s) to be considered. However, given the range of the offences that involve violence, consideration must be given to the nature of the offence.

6.3 Unless there are exceptional circumstances, an application will normally be refused or existing licence suspended or revoked where the applicant / licence holder has a conviction for an offence such as:

- Murder;
- Manslaughter;
- Manslaughter or culpable homicide while driving;
- Terrorism offences;
- Or any similar offences or offences which replace the above.

6.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 10 years** prior to the date of application:

- Actual bodily harm which is racially / religiously aggravated;
- Arson;
- Assault Police;
- Common assault which is racially / religiously aggravated;
- Criminal damage which is racially / religiously aggravated;
- Grievous bodily harm with intent;

- Malicious wounding or grievous bodily harm which is racially aggravated;
- Possession of firearm;
- Resisting arrest;
- Riot;
- Robbery;
- Violent disorder;
- Similar offences or offences which replace the above.

6.5 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 3 years** prior to the date of application:

- Affray;
- Assault occasioning actual bodily harm;
- Common assault;
- Criminal damage;
- Obstruction;
- Possession of a weapon (or imitation weapon) or any other weapon related offence other than a firearm;
- S5 Public Order Act 1986 offence (harassment, alarm or distress);
- S.4 Public Order Act 1986 offence (fear of provocation of violence);
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress);
- Similar offences or offences which replace the above.

6.6 An application will normally be refused if an applicant has more than one conviction or other matter to be considered in the last **10 years** for an offence of a violent nature.

7.0 Sex and indecency offences

7.1 As licensed drivers often carry unaccompanied and vulnerable passengers, a firm line is to be taken with those who have convictions or other matters to be considered for sexual offences. An application will normally be refused or existing licence suspended or revoked for convictions or other matters to be considered for the more serious sexual offences. For other offences, applicants will be expected to show a substantial period free of conviction or other matter to be considered for such offences before an application will be approved.

7.2 Unless there are exceptional circumstances, an application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence such as:

- Assault by penetration;
- Exploitation of prostitution;
- Indecent assault;
- Offences involving children or vulnerable adults;
- Possession of indecent photographs, child pornography etc;
- Rape;
- Sexual assault;
- Trafficking for sexual or other exploitation;
- Similar offences or offences that replace the above.

7.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 7 years** prior to the date of application:

- Indecent exposure;
- Soliciting (kerb crawling);
- Similar offences or offences which replace the above.

7.4 In addition to the above the Licensing Authority is unlikely to grant a licence to any applicant who is currently on the Sex Offenders Register.

7.5 An application will normally be refused if an applicant has more than one conviction or other matter to be considered for a sexual offence.

8.0 Dishonesty

8.1 An applicant or existing licence holder is expected to be a trustworthy person. They deal with cash transactions and valuable property which may be left in their vehicles. Licence holders are required to deposit such property with police within 24 hours. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

8.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction or other matter to be considered is **less than 3 years** prior to the date of application:

- Benefit fraud;
- Burglary;
- Conspiracy to defraud;
- Forgery;
- Fraud;
- Handling or receiving stolen goods;
- Obtaining money or property by deception;
- Other deception;
- Taking a vehicle without consent;
- Theft;
- Similar offences or offences which replace the above.

9.0 Drugs

9.1 A serious view is taken of any drug related offence. The Licensing Authority will consider the nature and quantity of the drugs involved within the following offences:

- Cultivation of a controlled drug;
- Importation of a controlled drug;
- Production of a controlled drug;
- Supply of a controlled drug;
- Or similar offences.

- 9.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the above offences and has not been free of conviction(s) or other matters to be considered for **at least 5 years**.
- 9.3 An application will normally be refused or an existing licence suspended or revoked where the applicant has more than one conviction or other matter to be considered for offences related to the possession of drugs and has not been free of conviction or other matter to be considered for **at least 5 years**.
- 9.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has an isolated conviction or other matter to be considered for an offence related to the possession of drugs within **the last 3 years**. Consideration should be given to the nature and quantity of the drugs involved.
- 9.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required. If the applicant was an addict then they would normally be required to show evidence of **3 years** free from drug taking.

10.0 Driving offences involving the loss of life

- 10.1 A very serious view is to be taken of any applicant or existing licence holder who has a conviction or other matter to be considered for a driving offence that resulted in the loss of life.
- 10.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the offences listed below and has not been free of conviction or other matter to be considered for **7 years**.
- Causing death by careless driving whilst under the influence of drink or drugs;
 - Causing death by dangerous driving;
 - Or any similar offences.
- 10.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the offences listed below and has not been free of conviction or other matter to be considered for **5 years**.

- Causing death by careless driving;
- Causing death by driving: unlicensed, disqualified or uninsured drivers.

11.0 Drink driving/driving under the influence of drugs

- 11.1 A serious view will be taken of a conviction(s) or other matter(s) to be considered for driving or being in charge of a vehicle while under the influence of alcohol / drugs. A single conviction or other matter to be considered may not result in an application being refused or an existing licence being suspended or revoked, provided that **at least 3 years** have elapsed since the ending of the disqualification. A conviction or other matter to be considered for 'refusing or failing to provide a specimen' will be treated in the same way.

11.2 Applicants with more than one conviction or other matter to be considered for driving or being in charge of a vehicle under the influence of alcohol / drugs or refusing or failing to provide a specimen are unlikely to be granted a licence unless a period of **10 years** has elapsed after the restoration of the driving licence following the last conviction or other matter to be considered.

12.0 Motoring Convictions

12.1 Major Traffic Offences

12.2 For the purposes of this Policy the following motoring offences are classed as ‘Major Traffic Offences’:

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
DD40	Dangerous driving
DD90	Furious driving
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

12.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction or other matter to be considered for a major traffic offence and has not been free of the conviction or other matter to be considered for **at least 6 months**.

12.4 An applicant with more than one Major Traffic Offence, within the last 5 years will normally be refused and no further application should be considered until a period of **at least 3 years** free from such convictions or other matters to be considered have elapsed.

12.5 If any conviction or other matter to be considered for a Major Traffic Offence results in a disqualification, applicants should refer to the section of these guidelines entitled “disqualification”.

12.6 Disqualification from driving

- 12.7 The Licensing Authority will treat a period of a disqualification as being that which a driver would have been eligible to serve, and may disregard the decision of a court to waive or reduce a disqualification period either on the grounds of exceptional hardship under S.35 of the Road Traffic Offenders Act 1988 or for "special reasons" under S.34 of the Road Traffic Offenders Act 1988.
- 12.8 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matter to be considered resulting in a period of disqualification of less than 56 days unless a period of **at least 6 months** has elapsed from the end of the disqualification period.
- 12.9 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matter to be considered resulting in a period of disqualification of up to 12 months unless a period of **at least 12 months** has elapsed from the end of the disqualification period.
- 12.10 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matters to be considered resulting in a period of disqualification of 12 months or more, unless a period of **at least 18 months** has elapsed from the end of the disqualification period.
- 12.11 The Licensing Authority will not normally grant an application for a private hire or hackney carriage driver's licence from a person who has been disqualified from driving for a period of 5 years or more, unless a period of at least **7 years** has elapsed from the end of the disqualification period.

13.0 Minor Traffic Offences

- 13.1 Other Traffic Offences not listed within this policy will be treated as 'Minor Traffic Offences'. A minor driving offence is one that incurs between 1 and 3 penalty points.
- 13.2 Where an applicant / licence holder has one conviction or other matter to be considered for a minor driving offence, this will not usually result in refusal or suspension / revocation.
- 13.3 More than one minor traffic conviction or other matter to be considered may result in a refusal, particularly where there are several convictions or other matters to be considered for the same offence e.g. speeding. A licensed driver may be referred to the Chief Officer or Licensing Panel where there are more than two offences.

14.0 Outstanding charges or summonses

- 14.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but in the interest of public safety the matter will be considered and may be deferred for determination until proceedings are concluded.

15.0 Non-conviction information

- 15.1 If an applicant or existing licence holder has been arrested or charged, but not convicted, for a serious offence which suggests he/she could be a danger to the public, consideration should be given to refusing or suspending / revoking the application / licence.

16.0 Repeat offending

16.1 While it is possible that an applicant may have a number of convictions or other matters to be considered that individually meet the above guidelines, an application will normally be refused where an applicant has a record of repeat offending which shows a lack of regard for the wellbeing of others or for property, unless a period of **at least 10 years** has elapsed since the most recent conviction or other matters to be considered.

17.0 Breach of Legislation or Licence Condition

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

APPENDIX D REHABILITATION OF OFFENDERS ACT 1974 AS AMENDED

(Note: this only applies to drivers.)

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

- a) The Rehabilitation of Offenders Act 1974 provides that after a certain lapse of time, convictions for offences are to be regarded as 'spent' (not relating to Hackney Carriage / Private Hire Drivers).
- b) Periods of time are given below and the time lapse is taken from the date of conviction.
- c) Sentence Rehabilitation Period
- d) Imprisonment between 6 months and 2 ½ years: 10 years
- e) Imprisonment of up to 6 months: 7 years
- f) Borstal training: 7 years
- g) A fine or other sentence not otherwise covered In this table 5 years
- h) Absolute discharge 6 months

- i) Probation Order, conditional discharge or bind over: 1 year (or until Order expires which ever is longer)
- j) Detention Centre Order 3 years
- k) Remand home, attendance centre and approved school order. The period of the order and a further: 2 years after it expires.
- l) Hospital order under the Mental Health Act; The period of the Order and a further 2 years after it expires;
- m) Cashiering, discharge with ignominy or dismissal with disgrace from the Armed Forces: 10 years
- n) Dismissal from the Armed forces 7 years
- o) Detention 5 years

NOTE:

- (i) A sentence of more than 2 ½ years imprisonment can never be spent
- (ii) If you were under 17 years of age on the date of conviction, please halve the period shown in the right hand column.

Generally, if the offence was committed whilst the offender was 16 years of age or less, the above periods are halved.

The periods of time, which must elapse in other cases before the conviction becomes spent, vary considerably according to the nature of the offence and other circumstances. The rehabilitation period may, for example, be extended by the commission of a further offence during the rehabilitation period.

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.

APPENDIX E THE SCHEME OF DELEGATION FOR LICENSING MATTERS

(Note: amended to remove other licensing matters)

The determination of all 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 policy including enforcement policy, excluding policies required to be approved by the council by the Gambling Act 2005 and the Licensing Act 2003.

- 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.