



# **PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING POLICY AND PROCEDURES**

**APPROVED BY COUNCIL:** 19 November 2015  
**IMPLEMENTATION DATE:** 1 January 2016

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## **CHAIR OF THE LICENSING COMMITTEE**



**Dear Member of the Trade**

**This document sets out the Council's policies and procedures for the licensing of hackney carriages and private hire vehicles, drivers and operators. It spells out clearly the Council's responsibilities in terms of protecting the travelling public of Darlington and also what we as a Council expect of you, our licensed Trade.**

**We recognise the valuable role you play in the transport provision for the people of Darlington. We appreciate that you sometimes have a difficult job to do and we are very proud of the vast majority of licence holders who provide a quick and courteous journey often to the most vulnerable members of our community.**

**We are anxious to promote your good work and hope that this document clarifies what you need to know and do to work within the licensing legislation and provide the best service possible to your customers.**

**This document also spells out how we will respond to you. It provides guidance on matters such as our enforcement protocols, the role of the Licensing Committee, how we deal with convictions etc. We are anxious to protect our reputable licensed trade and will take action to ensure that illegal, unlicensed activities and persons are dealt with appropriately.**

**I would encourage you to use this document as a reference book. It is full of useful information and should be able to provide the answer to most of your queries. Every member of the Licensing Committee will also have a copy to better understand the requirements made of you.**

**My Best wishes to you**

A handwritten signature in black ink, appearing to read 'Tom Nutt'. The signature is stylized and cursive.

**Tom Nutt  
Chair of Licensing Committee**

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## Introduction

1. Hackney carriages and private hire vehicles play an important part in the provision of local transport. They provide a flexible form of public transport and can play an increasingly important role in improving accessibility. They are also used by all social groups.
2. **The purpose of the Local Authority when licensing hackney carriages and private hire vehicles, drivers and operators is to protect the public.** Darlington Council ("The Council") is aware that the public should have reasonable access to safe and comfortable hackney carriages and private hire vehicles because of the role they play in local transport provision.
3. A hackney carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to "ply for hire". This means that it may stand at designated taxi stands or be hailed in the street by members of the public.
4. Private hire vehicles too must have no more than 8 passenger seats but they must be booked in advance through an operator and may not ply for hire in the street.
5. Local authorities are responsible for the licensing, administration and enforcement of hackney carriage and private hire vehicles in their areas. The Council currently licences 172 hackney carriage vehicles and 75 private hire vehicles (figures at 31 January 2015).

## Powers and Duties

6. The Council has adopted Part 2 of The Local Government (Miscellaneous Provisions) Act 1976 (Minute C140/Feb/80). This legislation, together with the provisions of The Town Police Clauses Act 1847, places on the Council the powers and duties to carry out licensing functions in respect of hackney carriage and private hire licensing. As such the Council is responsible for the licensing of private hire drivers, vehicles and operators and hackney carriage drivers and vehicles. This document sets out the policy that the Council will apply when making decisions about new applications and licences currently in force.

## Objectives

7. The objectives of this Policy are as follows:
  - a) To protect the interests of the travelling public by:
    - i) Ensuring that the drivers of such vehicles and private hire operators are "fit and proper" persons.
    - ii) Ensuring that safe, clean, reliable and accessible hackney carriage and private hire vehicles are available for all who require them.
  - b) To provide clarity for licensees with regard to the Council's expectations and the decision making process.
  - c) To encourage environmental sustainability.
  - d) To encourage high standards of professionalism in the hackney carriage and private hire trade.
8. This Policy shall apply in respect of applications, renewals, transfers and any other related matters connected to the following licences:
  - a) Hackney carriage driver
  - b) Hackney carriage vehicle
  - c) Private hire driver
  - d) Private hire vehicle
  - e) Private hire operator
9. This Policy shall also apply in respect of disciplinary and enforcement measures and will introduce a code of conduct to be followed by all persons licensed under this Policy.

## **Licensing Methods**

10. The methods we shall use are as follows:
  - a) Setting the standards for the licensing of drivers, vehicles and operators.
  - b) Annual licensing and routine inspection of vehicles, with appropriate follow up action.
  - c) Routine inspection of insurance policies and Certificates of Compliance / MOT certificates, with appropriate follow up action.
  - d) Checks of driver's medical health, criminal record and knowledge of the Borough.
  - e) Investigation of complaints with appropriate follow up action.
  - f) Liaison with the Police and other agencies regarding issues of mutual concern in relation to offences or the conduct of licensees.
  - g) Liaison with the hackney carriage and private hire trade by way of open meetings and the issue of trade newsletters.
  - h) Taking enforcement and/or disciplinary action including the issue of prosecution proceedings, verbal and written warnings, simple cautions, suspension or revocation of licences for breaches of legislation or conditions.
  - i) Conditions added to licences.
  - j) The issue of guidance notes.
11. When considering applications and taking enforcement action the Council is subject to the Regulatory Compliance Code, the Council's Enforcement Policy and the Code for Crown Prosecutors.

## **Best Practice Guidance**

12. In formulating this Policy the Council has considered the best practice guidance issued by the Department for Transport.

## **Status**

13. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy and the objectives set out above.
14. Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from the Policy, clear and compelling reasons will be given for doing so.

## **Implementation and Review**

15. This Policy will take effect from 1 January 2016. From the effective date, this Policy will override and supersede all existing policies in relation to the licensing of private hire and hackney carriages, their drivers and operators.
16. The Council will keep this Policy under review and will consult where appropriate on proposed revisions. A full review of the Policy will be conducted every five years from the date of effect above.
17. When this Policy is implemented, the Council will require licence holders to comply with its terms immediately or, where appropriate, from the renewal of a current licence. Where it is not possible to comply with part of the Policy due to an outstanding action required by the Council information will be provided as to an implementation date for that part.
18. The Council may monitor and review this Policy or areas of the Policy prior to the five year review period when considered necessary.
19. After the introduction of this Policy, the Council may make decisions, which change the content of this Policy. The changes may either have immediate effect or come into effect on a given date. This Policy document will be regularly updated to reflect these changes. Amended copies of the Policy will be available from the Licensing Office and via the internet.



## Consultation

20. In preparing this Policy the Council has taken into account the views of:

- a) Licensees
- b) Durham Police
- c) Planning Authority
- d) Safeguarding Children's Board
- e) School Transport Division
- f) Darlington Association for Disability (DAD)
- g) Service Users

21. The Council will also consult with other organisations when necessary.

22. A full list of those consulted in preparing this Policy is set out on the final page of this document.

## Area and Impact

23. Darlington is a medium sized town with a total population of just over 105,000. The River Tees and North Yorkshire lie to the south, the Teesside conurbation to the east, County Durham to the north and rural Teesside to the west. There are excellent communication links with a principal station on the East Coast rail mainline, the A1 (M) Motorway and Durham Tees Valley International Airport.

24. 52,000 or 73.5% of the working age population are in employment. Most of Darlington's population live in the urban area with Eastbourne, Park Hill and Harrowgate Hill having the highest resident population.

25. There are around 2,685 businesses, most of which are now in the public, health and education sector or financial and business services. The town centre is of sub-regional importance for shopping and services and the town is also an important employment centre.

26. Generally Darlington is an economy of small, owner-managed businesses that co-exist with branch factories, offices and shops.

27. The late night economy of the Borough is principally centred around the town centre where a number of entertainment premises, pubs and takeaway establishments are situated. These activities support the cultural diversity of the Borough and contribute to its economy.

28. The Council recognises and welcomes the contribution that the Private Hire and Hackney Carriage trade make to the transport and tourism industry in the area.

## Partnership Working

29. The Council will work in partnership with the following agencies and individuals to promote the policy objectives:

- a) Local Hackney Carriage and Private Hire Trade
- b) Durham Constabulary
- c) Local Transport Authorities and Committees
- d) Planning Authority
- e) Local Residents
- f) Disability Groups
- g) Service Users
- h) Vehicle and Operator Services (VOSA)
- i) HM Revenue and Customs
- j) Department of Work and Pensions
- k) Other Council Departments
- l) Tees Valley Licensing Group

## Related Policies and Strategies

30. This Policy will be integrated with local planning, transport, tourism, equality and cultural strategies, and other plans introduced for the management of the Borough and night-time economy.

31. The Council as a member of the Tees Valley Licensing Liaison Group will work with the other council representatives to seek harmonisation of policies and conditions, where applicable, across the Tees Valley District. The Council will also work in partnership with other agencies including those referred to in **paragraph 29 above**

## **Equality**

32. The Council is committed to ensuring equality in employment and service delivery. To achieve the above standard the Council is aware of its duties under the following legislation:
- a) Sex Discrimination Act 1975
  - b) Race Relations Act 1976/2000
  - c) Equality Act 2010
  - d) Human Rights Act 1998

## **Duties and Obligations under the Equality Act 2010**

33. The Equality Act 2010 consolidates the legislation previously set out in the Disability Discrimination Act 1995 and the Disability Discrimination Act 2005 to increase access to transport services and infrastructure by disabled people. Those who provide transport services by way of Hackney Carriage and Private Hire vehicles are advised to contact the Equality and Human Rights Commission for further information and advice on avoiding discrimination.
34. It is a requirement of a vehicle licence that wheelchair accessible vehicles have the appropriate equipment so as to transport passengers in wheelchairs at all times. Any vehicle proprietor found in breach of this may be disciplined.
35. Licensed drivers are under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without any additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply for an exemption from the duty on medical grounds. A medical certificate must be provided, at the drivers expense, from the drivers own GP stating the details of their medical condition. A register will be kept of those drivers exempted. **Persons who breach duties may be guilty of a criminal offence.**
36. Further information is available from the Equality and Human Rights Commission at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## **Duties and Obligations under the Human Rights Act 1998**

37. Article 1 of Protocol 1 of the European Convention of Human Rights confers on Individuals (and companies) the Right to Peaceful Enjoyment of their possessions and the Protection of Property. Once granted, a Licence is a possession and no one can be deprived of his property or have controls put on his property except where the action is permitted by law and justifiable in the public or general interest.
38. When considering matters relating to the grant, revocation, renewal or refusal of licences and the placing of conditions on licences, the Council must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. In addition consideration must be given to whether the interference is proportionate.

## **Crime and Disorder Act 1998 Section 17**

39. Section 17 of the Crime and Disorder Act 1998, places a duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

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### Licences

40. The Council issues licences for Private Hire and Hackney Carriage drivers. In addition drivers may hold both licences and these are referred to as Dual or Combined licences.
41. Licences are issued subject to proof of eligibility – driving licence, driving assessment (DSA test), knowledge/locality test, criminal records check and medical assessment.
42. The statutory and practical criteria and qualifications for each licence are broadly identical and therefore this chapter will apply to all driver licences. However where differences exist between the licensing regimes reference will be made to it in this policy.
43. **At all times, the Council’s legitimate aim is to protect members of the public who are using vehicles and drivers licensed by the Council and thus if the documentation produced does not satisfy the Council then the application will be refused.**

### Driving Experience

44. An applicant for the grant of a hackney carriage or private hire driver licence must have held a full DVLA driving licence for a period of 12 months before an application for the grant of a driver’s licence will be accepted. This is a legal requirement under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976. Full driving licences issued by EEA states will also count towards this qualification requirement and equal recognition will also be given to Northern Ireland driving licences.
45. In addition applicants are required to have passed the Driving Standards Agency (DSA) Taxi Drivers test and produce the original copy of the pass certificate. The Driving Standards Agency can also carry out an enhanced test for wheelchair accessible vehicles drivers and a separate wheelchair exercise for drivers who have already passed the normal taxi test for saloon drivers.

### DVLA Driving Licences

46. The DVLA no longer issues a driving licence counterpart (D740). In order to be satisfied that an applicant has a current DVLA driving licence and also to be aware of any penalty points on the licence, the Council has entered into a contract with the DVLA to enable checking of driving entitlement and driving history directly with the DVLA.

47. The DVLA requires the holder of the licence to give permission for access to driver records by way of a mandate which will be valid for a period of three years. This means that drivers will no longer have to produce their Counterpart DVLA driving licence.
48. For drivers other than those wishing to work within the taxi and private hire trade a valid driving licence issued anywhere within the European Union (EU) or European Economic Area (EEA), may be used by the licence holder until the age of 70, or for up to three years from the time they become resident in Great Britain (whichever is longer). After three years it must be exchanged for a GB licence. EU licences can only be renewed in the country in which the holder is resident. If a driver holds a licence from another EU country and renews it in Britain, it will be converted to a UK licence.
49. Any driver holding an EEA/EU driving licence will be required to exchange this licence for a photo card licence issued by the DVLA prior to the grant or renewal of Hackney Carriage or Private Hire driver licence.

## **Right to Work**

50. The prevention of illegal working in the UK is governed by sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006. The Government's Department of Transport (DfT) Best Practice Guidance in relation to hackney carriage and private hire provides for licensing authorities to check on an applicant's right to work in the UK before granting a licence.
51. All applicants for a private hire operator and/or a private hire and hackney carriage driver licence will be required to prove that they have a right to work in the UK before being considered for a licence. In doing so, the Council may seek information regarding the immigration status of an individual from the Home Office.
52. For British applicants without a current British passport, a birth certificate which includes the name(s) of at least one of the holder's parents and proof of National Insurance number is required.
53. Applicants from Switzerland or one of the EEA countries have the right to work in the UK providing they can provide evidence of their right to work in the UK.
54. Applicants who are non EU nationals will have to provide proof of the right to work in the UK in accordance with current Home Office guidance on preventing illegal working. Usually a Biometric Residence Permit and a valid passport should be provided before any application can be accepted.

**A licence will not be granted until an applicant is able to prove they have a right to work in the UK. Checks will be made at each renewal process. All documentation will be copied and kept on the applicants personal file**

## **Language Proficiency**

55. Applicants who cannot demonstrate a reasonable level of spoken English may be required to undertake an assessment of their spoken English. This assessment will be undertaken by an Authorised Officer at the Council offices

## **Applicants Who Have Spent Time Abroad**

56. If an applicant is newly resident in the UK they must still apply for an enhanced DBS check regardless of the period of time they have spent in the UK.
57. Where an applicant has spent 3 months or more living abroad or has not lived in the UK for a continuous six year period at the time of the application, an enhanced DBS disclosure in itself will usually be insufficient to satisfy the Council that the applicant is a fit and proper person. This is because the DBS does not routinely provide criminal record information from non UK countries. These applicants will be required to provide a Certificate of Good Conduct or an equivalent document, translated into English by a recognised, impartial body, from each country where they have been living

58. A Certificate of Good Conduct or equivalent document is an extract from the judicial record or administrative authority in the relevant country testifying to good conduct and/or to any criminal convictions recorded against the individual. The Council will take advice from the DBS in identifying the appropriate authority where available.
59. The Council may approach the relevant Embassy or appropriate body directly to verify documents provided. Any costs involved must be met by the applicant.
60. The applicant is advised to submit additional information with the application e.g. verifiable references from former employers and persons in positions of trust, which may demonstrate that they are a fit and proper person. The Council may require the applicant to submit additional information.
61. Existing licensed drivers must notify the Council in writing when they intend to leave the country for an extended period of 3 months or more. They must also notify the Council on their return and complete a statutory declaration on the form provided by the Council.
62. Details of where applicants can access information concerning Certificates of Good Conduct is contained in **Appendix 8**

### **Disclosure and Barring Service and Criminal Records**

63. The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. The Service replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
64. The DBS are responsible for
  - a) processing requests for criminal records checks
  - b) deciding whether it is appropriate for a person to be placed on or removed from a barred list
  - c) placing or removing people from the DBS children's barred list and adults' barred list for England, Wales and Northern Ireland

Any person who is on the DBS Barred List will be deemed to be **not** a fit and proper person to hold a private hire and/or hackney carriage driver licence.

65. A criminal record check on a driver is an important safety measure for all drivers. Enhanced Disclosure through the DBS is required (applied for through the Council's Licensing Office). Enhanced disclosures include details of spent and unspent convictions, police cautions and Police intelligence.
66. The Rehabilitation of Offenders Act 1974 does **not** apply to applicants for hackney carriage or private hire driver licences by virtue of the Rehabilitation of Offenders Act 1974 (Exception) Order 1977 and therefore applicants are required to disclose all convictions, including those that would normally be regarded as spent.
67. Before an initial application for a driver's licence will be considered, the applicant must apply for an Enhanced Disclosure of criminal convictions through the Council. The application will not be determined until the results are received. DBS checks are not portable and only DBS checks applied for through Darlington Council will be accepted. In addition DBS disclosures will only be acceptable up to one month from the date of issue.
68. The Council is a Body registered with the DBS and can apply for the Disclosure at the applicant's request subject to the appropriate fee. Guidance notes (including proof of identity requirements) are available from the Licensing Office. The Council is bound by rules of confidentiality.
69. The disclosure report will be sent to the applicant's home address. The Council will NOT receive a copy of the report and the applicant must produce the entire original copy of the DBS certificate to the Licensing Office. **Photocopies or part disclosures will not be accepted.**

70. Once a copy has been received it will be referred to an Authorised Officer for checking and if satisfactory, it will be returned immediately. If an officer is not available, the DBS disclosure will be placed within the driver's folder and stored in a secure cabinet until an Authorised Officer is able to check it. Please note that copies of disclosures are not stored on drivers' files at any time unless the driver authorises the storage in lieu of the criminal conviction declaration.
71. Any applicant for a new licence or renewal of licence is required to provide details of all criminal, motoring and licensing convictions including fixed penalties, spent convictions and cautions. It is an offence to knowingly or recklessly make a false statement or to omit information required by the Council (s.57 Local Government (Miscellaneous Provisions) Act 1976).
72. Applicants for renewal of a driver's licence are required to have an enhanced disclosure criminal record check from the DBS every third year.

## DBS Update Service

73. From 1 January 2016 we will accept DBS "updates". The Update Service will cost you £13 per year to maintain, which you must pay directly to the DBS
74. After you have provided the initial DBS check, you will not need to apply for another DBS check, as we can check your details online – as long as you maintain your DBS Update Service.
75. You will only need another check if there are changes to the information on your DBS record, such as a caution or convictions being recorded; and you would then be charged again at that time to make another application to the DBS.

### How does this relate to being licensed as a taxi driver after 1 January 2016.

76. **New applicants** will need to apply for the DBS check in the normal way, and may choose to sign up to the Update Service. **Drivers who require a licence in excess of one year will be required to sign up to the Update Service.** We will not grant the licence until everything is complete, including being signed up to the Update Service.
77. **Existing drivers will need to apply after their next DBS check is due.** When you **renew a current licence**, if your DBS check is not due, then, you may voluntarily take out the Update Service; but to do so you will need to do a new DBS check and subscribe to the Update Service at the same time. **For those drivers who wish to take advantage of a 3 year licence, we would require a fresh DBS and proof of being signed up to the Update Service**
78. **Once you are on the Update Service if you need other DBS checks – provided that the level, type and workforce are the same – you should be able to use the Update Service and so not have to pay for a further DBS check.**

### What is the DBS Update Service?

79. For a small annual subscription of £13 (free for volunteers) you can have your DBS Certificate kept up-to-date and take it with you from role to role, within the same workforce, where the same type and level of check is required.
80. By subscribing to the new service you could save yourself a lot of time and money depending upon how many DBS checks you have needed in the past.

### How do you access the Update Service?

81. You will be able to join the Update Service online at [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service).

82. Subscribing online should be quick and simple. Just enter your application form or DBS Certificate number, name, date of birth and address and pay the subscription fee securely to your DBS account. When your subscription is confirmed you then start to see the benefits of this new service.

### **Benefits to you**

- Saves you time and money
- No more DBS application forms to fill in. One DBS Certificate is all you may ever need.
- Take your DBS Certificate from role to role within the same workforce.
- You are in control of your DBS Certificate.
- Get ahead of the rest and apply for jobs DBS pre-checked.

### **Benefits to your employer or Council**

- Instant online checks of DBS Certificates.
- Less bureaucracy.
- Saves time and money.
- Enhanced safeguarding processes help reduce risks.

83. **We have included information about the DBS Update Service for more detailed information at <https://www.gov.uk/dbs-update-service>**

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

84. In assessing whether the applicant is a fit and proper person to hold a licence, the Council will consider each case on its own merits and will have regard to the adopted guidelines on the relevance of convictions a copy of which is attached at **Appendix 7**

### **Driver Knowledge/Locality Test**

85. In order to determine the fitness of a person to hold a licence, all applicants are required to sit and pass a test on their knowledge of the local geography, driver conduct / conditions, Highway Code and licensing legislation. Tests for hackney carriage drivers include a more detailed assessment of local geography, location of hackney carriage stands and knowledge of tariffs and charges. A driver licence will not be issued without the applicant first passing the knowledge test.
86. The fee for one knowledge test is currently included in the fee for a licence. If an applicant fails to pass the test, a further fee will be charged for every subsequent test. Such fees are to be paid prior to the test date being booked. Bookings for a test appointment will not be accepted without the payment of the fee.
87. Should an applicant fail to pass the knowledge test within four attempts, they will be required to wait for a period of at least 3 months before a further test may be re-booked. This should provide the applicant with sufficient time to develop the necessary knowledge required in order to successfully undertake the knowledge test.
88. Applicants should note that where an application is pending in excess of 6 months the applicant will be obliged to provide a new DBS Certificate and a new Medical Assessment or a letter from the GP who carried out the original medical confirming that there has been no change in the medical fitness of the applicant will be required.
89. If an applicant cancels a test with less than two working days' notice or fails to attend a test or is more than 10 minutes late for the test without a reasonable excuse, a further fee shall be required prior to a re-test being booked.

## Medical Assessment

90. Under s.57 of the Local Government (Miscellaneous Provisions) Act 1976 the Council may require an applicant for a hackney carriage or private hire drivers licence to produce a certificate signed by a registered medical practitioner to the effect that s/he is physically fit to be a driver of such a vehicle. The Council requires a medical certificate upon an initial application for a licence. In addition to such a certificate the Council may require an applicant to submit to examination by a registered medical practitioner selected by the Council as to his/her fitness to be a driver of a hackney carriage or private hire vehicle.
91. In line with DVLA recommendations, the Council applies the DVLA Group II driver standard for medical fitness for hackney carriage and private hire drivers. This is a higher medical standard than that required of drivers of other motor vehicles and is required due to the length of time the driver may spend at the wheel and the responsibility they have for the safety of their passengers and the public. In addition drivers may have to assist disabled passengers and handle luggage.
92. Upon an initial application for a driver's licence the applicant shall produce a completed Medical Certificate provided by the Council. This must be completed by the applicant's own GP or a medical practitioner with access to the applicant's medical history.
93. The applicant is responsible for paying the fee for the examination. If necessary the GP may return the completed form direct to the Licensing Office. The medical certificate will be valid for a period of 6 months after which either a new medical form or a letter from the GP who carried out the original medical confirming that there has been no change in the medical fitness of the applicant will be required. Once the medical is 12 months old a letter will not be accepted and a new medical will be required.
94. The medical practitioner must confirm that:
  - a) they have examined the applicant;
  - b) the applicant is registered with the practice; and/or
  - c) they have had full and complete access to the applicant's medical records;
  - d) The medical examination was carried out to the Group II standard;
  - e) (S)he considers the applicant to be fit to act as the driver of a hackney carriage or private hire vehicle in accordance with this standard.
95. Applicants aged over 45 years must provide evidence of their medical fitness to hold a licence every five years and once they reach the age of 65 years an annual medical will be required.
96. If a driver has a medical condition that requires notification to the DVLA e.g. sleep apnoea they **must** also notify the Council in writing at the same time that DVLA is notified.
97. In addition to the above requirements where a driver suffers from a condition that requires monitoring but would not prevent him/her from driving (s)he is required to provide written confirmation from his GP or consultant, as recommended by the DVLA standards, each year that s/he remains fit to carry out the duties of a driver and/or may be required to submit an annual medical.
98. If the Licensing Authority is not satisfied as to the medical fitness of an applicant a hackney carriage or private hire drivers licence will not be granted. If the Licensing Authority is not satisfied as to the medical fitness of a licensed hackney carriage or private hire driver there will be reasonable cause to suspend, revoke or refuse to renew the licence under s.61 Local Government (Miscellaneous Provisions) Act 1976. This suspension may also be undertaken in accordance with s.52 of the Road Safety Act 2006 on the grounds of public safety. This means that the suspension takes immediate effect and although the driver may appeal they are unable to drive pending the appeal.



## Application Procedure

99. An application for a driver's licence is to be made prior to the applicant taking the required knowledge test. The following documents with relevant fees are to be submitted in person for a new application:

- a) A completed D796 DVLA Mandate
- b) A completed Application form.
- c) A Group II Medical Assessment.
- d) A DBS application form with appropriate identity documents (or alternative).
- e) A CSE Awareness Training Certificate
- f) A DSA Taxi Driver Test "Pass Certificate" and/or the Hackney Wheelchair Enhanced Certificate or Wheelchair Exercise Certificate when applicable.
- g) A Valid DVLA Driving Licensing (old style paper licence) or DVLA Driver Photo-Card driving licence where applicable. Photo cards must show a valid date for the entire period of the imminent licence. Expired licences will not be accepted.

Drivers who hold other European driving licences must apply to the DVLA to exchange their EU driving licence to a UK photo-card licence.

All documents must correspond in respect of the full name and address of the applicant or the application will be rejected. Any incorrectly completed forms will not be accepted.

100. The application will not be determined until the knowledge test has been taken and passed and DBS check is received.

101. If the application is withdrawn or refused the fee will be refundable minus the current admin charge. Where an application is refused and subject to appeal further charges will be incurred and no refund will be given.

102. It is expected that the entire application process shall be fully completed within 6 calendar months from the date of the initial application and normally the processing time will be much shorter than 6 months. Where an application is pending in excess of this period, the applicant will be obliged to provide an new DBS Certificate and a new Medical Assessment or a letter from the GP who carried out the original medical confirming that there has been no change in the medical fitness of the applicant will be required.

103. The following documents are to be submitted in person or by post along with the relevant fee for a renewal application:

- a) A completed application renewal form.
- b) A completed D796 DVLA Mandate
- c) A Group II Medical Assessment (if required) or other specified medical documentation.
- d) A valid DVLA Driving Licence (Old style paper licence or photo-card driving licence where applicable.) Photo cards must show a valid date for the entire period of the imminent licence.

Expired licences will not be accepted and if the photo card driving licence expires during the forthcoming licence period, a licence will only be granted to that date. Once an applicant has produced a new photo card licence, the driving licence and driver badge will be re-issued to extend the licence to the original expiry date. Any fees resulting from this will be met by the holder of the licence.

- e) If the 3 yearly DBS check is due, an appointment will be sent for the licence holder to attend the Licensing Office approximately 8 weeks prior to the licence expiry date. This will allow the DBS to process the application and send out a disclosure certificate in time for a renewal appointment. The applicant should attend the office with the completed application, supporting documentation and fee

104. Holders of existing driver's licences must apply to renew their licence in the second part of the month preceding the expiry date. Ideally the application should be submitted at least 7 working days prior to the expiry of the previous licence to allow for the production of the new licence, as

the legislation does not allow for continuity of licence. Applications received more than a day after the expiry date will be dealt with as a new application (i.e. expiry 31 January – application will be accepted for renewal no later than 01 February)

105. Renewal applications will be processed and issued pending any required enhanced DBS check unless the Council has reasonable grounds for concern. In this situation the renewal application will not be determined until or unless these concerns have been alleviated.
106. If details of new convictions or charges are received during the renewal process the application to renew will be dealt with on its merits according to this Policy.
107. If details of any convictions or cautions are received through the DBS check process and a declaration has been signed stating that there are no new convictions or cautions this will be treated very seriously and the appropriate action taken.
108. The Licensing Manager may at any time refer a decision to grant or renew a licence to the Council's Licensing Committee.
109. All drivers will be issued with a badge detailing their licence number, expiry date and a photograph of the licence holder. The badge must be prominently worn at all times when the driver is working.
110. Lost or damaged badges must be reported on the next working day to the Licensing Office. A fee will be charged for a replacement badge.

### **Term of Licence**

111. New applicants and applicants for renewal of licence may apply for a 3 year licence in those cases where there are not any issues concerning the application
112. Where a licence is granted for a period in excess of one year, the licence holder shall be required to attend the Licensing Office annually to make a declaration that they have not accrued any penalty points or criminal convictions, cautions, reprimands or final warnings within the preceding 12 months and that their medical status has not changed in any way. Licence holders will be required to sign a declaration that they will be liable for prosecution if they make a false declaration or omit to provide any requisite information.
113. In addition, all 3 year licence holders shall be required to have valid DVLA licences, medicals and criminal record checks for the entire 3 year period.
114. Where this is not the case, applicants may choose to bring forward such checks to align them to a 3 year licence, however if any of these expire within the 3 year period a pro rata licence (with pro rata fee) will be considered.
115. In addition it is proposed that applicants for 3 year licences are required to register for the Disclosure and Barring Service (DBS) updating system and the similar DVLA access system and provide authorised access to the Council to enable ongoing checks to be made.
116. In cases where applicants/renewal applicants are referred to the Council's Taxi Licensing Sub Committee in respect of matters of concern e.g. criminal or medical issues or serious complaints, it is proposed that a maximum one year licence will normally be granted and repeated for the first 3 years.
117. If there are no further concerns after that time period the opportunity to apply for a 3 year licence shall be offered.
118. Licence holders that are subject to specific annual checks eg an annual medical will be limited to an annual licence.
119. Licences which exceed one year, will be subject to a higher licence fee.
120. Applicants can choose to apply for a one year licence

## Conditions of Licence

121. The legislation pertinent to licensed drivers is detailed at **Appendix 1** and the Council's policies in respect of the licensing of drivers are detailed at **Appendix 2**. The Council is empowered to attach such conditions to a private hire driver's licence as are considered reasonably necessary. The conditions set out at **Appendix 3** are considered reasonably necessary and as such may be legally imposed in respect of private hire drivers.
122. The legislation does not permit the Council to attach conditions to a hackney carriage driver's licence. Hackney Carriage Drivers will however be subject to the Council's byelaws, a copy of which will be provided to them as part of their licence. The Byelaws are detailed at **Appendix 4**.

## Code of Good Conduct

123. This serves to promote the Council's licensing objectives (paragraph 7 (a) and (d) of this policy) in respect of hackney carriage and private hire licensing. The Code of Good Conduct will be taken into consideration in disciplinary matters. All licence holders will be provided with a copy of the Code and the driver's file will be updated to confirm receipt. The Code of Conduct is attached at **Appendix 5** to this policy.

## Driver's Dress Code

124. A dress code serves to enhance the professional image of the hackney carriage and private hire trade, and promotes the concept that drivers of licensed vehicles are vocational drivers. In order to raise the profile of the licensed trade, drivers should operate, at all times in a professional manner and conform to a minimum standard of dress. The Council's Dress Code for licensed drivers is detailed at **Appendix 6**. Failure to comply with the Dress Code may be taken into consideration in disciplinary matters.

## Driver Training

125. At present there is no requirement for new applicants or existing drivers to undergo any form of formal training. In recent years the following formal training packages have been developed:
- a) The BTEC Intermediate Award – Transporting Passengers by Taxi and Private Hire Trade
  - b) NVQ Level 2 in Road Passenger Vehicle Driving

The Awarding Bodies have indicated that the best option is for candidates to undertake both courses as the BTEC training underpins the NVQ assessment and it is usual for them to be run side by side.

126. However, due to the high cost of these awards, the Council is not insisting on new applicants or existing drivers to undertake one of the above training packages.
127. Drivers will be encouraged to undertake these courses if there is funding available with a view to the Council considering making such training a requirement mandatory for all new and current drivers at some time in the future.

## Disability Awareness Training

128. The Council has collaborated with Darlington Association for Disability (DAD) to set up a training package for drivers in respect of disability awareness with an additional add on session for correct loading and unloading of disabled passengers. New applicants and existing drivers will be required to attend the session(s) once it has been rolled out.

## **Child Sexual Exploitation Awareness Training**

129. Sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities, violence, coercion and intimidation are commonly, involved in exploitative relationships.
130. Darlington Borough Council Licensing Section and the Local Safeguarding Children's Board is tackling child sexual exploitation and trafficking, by working together with Durham Police. By key agencies working together and sharing information, we can prevent sexual exploitation, protect children and young people and prosecute perpetrators of sexual exploitation.
131. Sharing information with Durham Police helps to protect young people from harm. Safeguarding children and young people is everyone's business. Taxi drivers are key in identifying victims of sexual exploitation and may come into contact with children and young people who are transported in taxis.

### **SAY SOMETHING IF YOU SEE SOMETHING**

132. **If you are concerned about the safety of someone and you believe there is an immediate risk of harm then contact Durham Police on 999. In all other circumstances, you can call the non-emergency number which is 101.**

### **TAXI DRIVERS REQUIREMENT TO UNDERTAKE SAFEGUARDING VULNERABLE PASSENGERS AWARENESS TRAINING**

133. Applicants for private hire, hackney carriage driver licences and private hire operators will be required to have undertaken Child Sexual Exploitation/Vulnerable training and will be required to produce a certificate as evidence of such training as part of their application.
134. Current drivers and operators will also be required to undertake this training as part of the renewal application from January 2016.
135. The Council in partnership with the other Tees Valley Council's and Barnardo's charity are working together to produce an online training programme for taxi drivers that covers CSE and vulnerable adult awareness.
136. The training will be an online training package where at stages during the programme there will be questions to answer. If the candidate achieves the required pass mark, a certificate can be printed off.
137. The certificate must be produced upon initial application for a driver licence from 1 January 2016, and for existing drivers, a certificate must be produced at the time an application for renewal of driver licence is made to the Authority.

## VEHICLES – HACKNEY CARRIAGE AND PRIVATE HIRE

• <b>Specifications</b>	paragraph(s)	153 – 161
• <b>Hackney Carriage Vehicles</b>	paragraph(s)	162 – 169
• <b>Private Hire Vehicles</b>	paragraph(s)	170 – 175
• <b>Novelty Vehicles and Stretched Limousines</b>	paragraph(s)	176 – 182
• <b>Exempted Private Hire Vehicles</b>	paragraph(s)	183 – 195
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### Specifications

The Department for Transport Best Practice Guidance recommends that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible. They are, however, encouraged to make use of the “type approval” rules within any specifications they determine.

153. All vehicles, therefore, shall have an appropriate ‘type approval’ which is either:
  - a) European Whole Vehicle Type approve
  - b) British Individual Type Approval
154. Vehicle type approval is the confirmation that production samples of a design will meet specified technical, safety and performance standards. The specification of the vehicle is recorded and only that specification is approved.
155. All vehicles subject to new applications for hackney carriage and private hire vehicle licences, shall have M1 European Whole Vehicle Type Approval (EWVTA).
156. EWVTA is based around EC Directives and provides for the approval of whole vehicles which is accepted throughout the EU without the need for further testing until standards or designs change. Category M1 covers vehicles designed and constructed for the carriage of passengers, comprising no more than 8 seats in addition to the driver’s seat
157. Most large volume production vehicles produced in the UK and EU states after 1987 will satisfy British and/or European Whole Type Approval. Specialist vehicles or any vehicle that has been structurally modified, converted or imported from a non EU State since its original manufacture will require separate SVA and/or Department for Transport approval and such documentation must be submitted with an application.

158. Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles.

Vehicles may also be licensed to carry fewer passengers subject to compliance with specifications relating to passenger comfort and vehicle conditions.

159. Applications in respect of novelty vehicles and stretched limousines will be determined on their individual merits but should as a minimum have either:
- British National Type approval: or
  - British Single Vehicle Approval (SVA) (before 29 April 2009) or;
  - Individual Vehicle Approval (from 29 April 2009)
160. Vehicles that have at any time been declared an 'insurance write off' (i.e. in category A, B, C, D) and/or have their V5 document endorsed as being 'accident damaged' will not be licensed. If a licensed vehicle is involved in an accident which results in the vehicle being declared an insurance write off then the licence will be revoked and the no further application to licence the vehicle will be permitted.
161. **Appendix 9** sets out the legislation pertinent to vehicles and **Appendix 10** sets out the Council's policies in respect of licensed vehicles.

### **Hackney Carriage Vehicles**

162. A hackney carriage vehicle is a wheeled vehicle used in standing or plying for hire that is required to have a numbered plate fixed upon it. The legal definition of a hackney carriage is contained in the Town Police Causes Act 1847.
163. A hackney carriage can ply for hire and also wait at a hackney carriage stand.
164. Conditions can be imposed upon the grant of a hackney carriage proprietor's licence and the Council has Byelaws to control the conduct of both the proprietors and the drivers. These Byelaws are attached at **Appendix 14**
165. The Council has imposed conditions relating to the specifications of the vehicle and other matters. These are attached at **Appendix 15**
166. In addition all hackney carriages must be:
- a) Red in colour.
  - b) Exceptionally well maintained to the standard prescribed by the Council.
  - c) Fitted with an approved roof sign bearing the word "TAXI".
  - d) Display the Council's licence plates, which must be securely attached to the exterior front and rear of the vehicle as prescribed by a condition of the Council.
  - e) Fitted with a meter of an approved type with the fares charged as determined by the Council.
  - f) Meters, after being checked for accuracy, must be sealed by an agent approved by the Council.
  - g) Display decals issued by the Council attached centrally to both front doors of the vehicle.

### **Booking Records for Hackney Carriages**

167. There has been an increasing practice of hackney carriages being used for private hire purposes, i.e. pre-bookings of vehicles. Hackney carriage vehicle conditions require that booking records are kept of all such pre-arranged bookings. The condition specifies the type of information to be kept and the retention period for such information. Full details can be found in **Appendix 15**

### **Meters**

168. It is a requirement for all hackney carriages to be fitted with a meter to calculate the journey fare.

169. Meters must comply with the Measuring Instruments (Taximeters) Regulations 2006 and must be of the calendar control type which is locked and sealed by an approved manufacturer/suppliers and/or installer so that tariff rates change automatically and cannot be changed or tampered with manually by the driver. This specification also applies to private hire vehicles where a meter is fitted.

### **Private Hire Vehicles**

170. A private hire vehicle is a motor vehicle constructed or adapted to seat up to 8 passengers (plus the driver) which is provided for hire with the services of a driver for the purpose of carrying passengers. Every hiring for a private hire vehicle must be pre-booked through a licensed private hire operator. Any vehicle used as a private hire vehicle must be licensed under the provisions of the Local Government (Miscellaneous Provisions) Act 1976.
171. Before granting a vehicle licence the Council must be satisfied that the vehicle meets the following criteria:
- a) Is suitable in type, size and design for use as a private hire vehicle.
  - b) Is not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage.
  - c) Is in a suitable mechanical condition.
  - d) Is safe.
  - e) Is comfortable.
172. Conditions may be attached to the grant of a licence as are considered reasonably necessary.
173. In addition to the legislative requirements the Council has imposed conditions relating to the specifications of the vehicle and other matters. These are attached at **Appendix 11**.
174. In addition all private hire vehicles must:
- a) Not be red in colour.
  - b) Be exceptionally well maintained to the standard prescribed by the Council.
  - c) Not be fitted with a roof sign of any description.
  - d) If the vehicle is fitted with a meter, it must be properly tested and sealed.
  - e) Display the Council's licence plates, which must be securely attached to the exterior front and rear of the vehicle as prescribed by a condition of the Council.
175. General conditions are attached to private hire vehicle licences relating to the identification of the vehicle and safety issues. These are attached at **Appendix 11**

### **Novelty Vehicles and Stretched Limousines**

176. The Council recognises the role novelty vehicles (e.g. converted fire engines) and stretched limousines play in the private hire trade to meet a public demand and has developed a separate licensing regime for such vehicles. Please see **Appendix 12**. (NB this includes additional proposed conditions in respect of such vehicles, relating to driver uniform, material change and exemption from window tint). Such vehicles will only be licensed as private hire vehicles.
177. It is not appropriate for such vehicles to be used for standard hiring (see section on Exempted Private Hire Vehicles) and licensed operators shall only send such a vehicle when it has been specifically requested by the hirer.
178. Most novelty vehicles, in particular stretched limousines are imported for commercial purposes and are required to have undertaken an Individual type approval (ITA) test (which has replaced the old single type approval (SVA)). This ensures that the vehicles meet modern safety standards and environmental standards before being used on public roads.
179. Stretched limousines shall also have Qualified Vehicle Modifier or Cadillac Coach builder approval where appropriate.

180. There shall be no sale or provision of alcohol (or provision of regulated entertainment) from any vehicle without a current premises licence under the Licensing Act 2003 being in force and if all of the occupants, (save for the driver and accompanying responsible adult), are under the age of 18 then there shall be no alcohol at all in the vehicle for consumption or otherwise.
181. Where the passengers in the vehicle consist of children and young persons they must be accompanied by a responsible adult, (other than the driver) who is over the age of 18 and is not connected to the driver.
182. There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals. Similarly a vehicle does not need to be licensed while it is being used wholly in connection with a wedding.

### **Exemptions for Private Hire Vehicles**

183. Private hire vehicles used for executive hire or novelty vehicles or stretched limousines will be permitted to apply for an exemption under Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 from the requirement to display licence plates.
184. Any proprietor of a licensed private hire vehicle wishing to apply for this exemption should be engaged substantially (i.e. more than 80% of hirings) in the provision of a 'chauffeur style' executive service or the vehicle operated should be an executive type vehicle, stretched limousine or other novelty vehicle as agreed by the Council.
185. Any proprietor of a licensed private hire vehicle wishing to apply for this exemption must satisfy the Council that:
  - a) the specification of the vehicle constitutes an executive vehicle<sup>1</sup> and
  - b) the overall level of service provision constitutes an executive hire, or<sup>2</sup>
  - c) the overall specification of the vehicle constitutes a novelty vehicle<sup>3</sup>
186. The submission of contract specifications and/or evidence of all contract and account customers, including usage will be required to support any application for an exemption. Applications for exemptions are to be made in writing with a proposed business case.
187. If an Exemption is granted, a Notice will be issued to the proprietor. The Notice shall be valid for a period not exceeding one year and shall expire alongside the private hire vehicle licence.
188. A rear licence plate will also be issued and this shall be carried in the boot of the vehicle at all times whilst the vehicle is being used in accordance with the exemption notice.
189. In addition, a discreet sign will be issued which must be displayed in or on the front windscreen at all times whilst the vehicle is being used in accordance with the exemption notice.
190. The Exemption Notice, the rear licence plate and the front sign shall be produced to an authorised officer or police officer when requested.
191. Whilst the vehicle is being used in accordance with the Notice, the driver of the vehicle shall be required to carry his private hire driver badge in the vehicle but shall be exempt from wearing it.
192. No advertisements of any kind shall be displayed in, on or from the vehicle at any time whilst the Exemption Notice is in force. Company logos shall not be displayed on any part of the vehicle.
193. Roof signs shall not be permitted and the overall appearance of the vehicle both externally and internally shall be that of an unlicensed private vehicle at all times.

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<sup>1</sup> An executive vehicle is a vehicle referred to as a premium class car finished to the highest specification and not a base or lower standard specification. The vehicle is to be provided with the services of a smart business wear uniformed driver

<sup>2</sup> The vehicle will not be used for typical private hire work

<sup>3</sup> For example , a stretched limousine, or a vehicle such as a fire engine which has been converted to be used as a novelty vehicle



194. The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard conditions and any additional conditions. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice. The Policy for and Conditions for Novelty Vehicles and Stretched Limousines are attached at **Appendix 12** and Exempted Licence Conditions in relation to Executive Vehicles is attached at **Appendix 13** to this Policy
195. The private hire operator, proprietor and driver operating under the provisions of an executive Exemption Notice, remain subject to the requirements of the Local Government (Miscellaneous Provisions) Act 1976 with regard to the respective licences and the conditions attached in each case.

### Age Restriction

196. The Council has age restriction policies in place requiring the vehicle to be under 3 years of age when first presented for licensing. Vehicle licences will normally only be renewed up to 6 years old (except for purpose built wheelchair accessible vehicles such as London Cabs which may be licensed up to 10 years of age).
197. Vehicles which meet the Council's "exceptionally well maintained" criteria may be licensed for longer periods.
198. Vehicles will only normally be licensed until the 6th anniversary of registration. Where a vehicle will reach its 6th anniversary during the period of a licence a reduced fee will be calculated as follows: the current administration fee plus the difference between the remaining annual licence fee, divided by 12 months and then multiplied by the number of months from the start of the licence period to the 6th anniversary (part months will be charged as full months). For example:

- a) If a HCV licence was due to be renewed on 1 April and it reached its 6<sup>th</sup> anniversary of registration on 3 November of that year, the fee would be

Full Licence Fee	<b>£410.00 -</b>
Admin fee	<b>£35.00 = £375.00 ÷ 12 =</b>
Monthly Fee	<b>£31.25 x 8 months =</b>
Reduced Licence Fee	<b>£250.00 + Admin Fee (£35.00) =</b>
Reduced Total Licence Fee	<b>£285.00</b>

- b) If a PHV licence was due to be renewed on 1 January and it reached its 6<sup>th</sup> anniversary of registration on 27 May of that year, the fee would be

Full Licence Fee	<b>£375.00 -</b>
Admin fee	<b>£35.00 = £340.00 ÷ 12 =</b>
Monthly Fee	<b>£28.34 x 5 months =</b>
Reduced Licence Fee	<b>£141.70 + Admin Fee (£35.00) =</b>
Reduced Total Licence Fee	<b>£176.70</b>

**The above examples do not include the plate fee and PHV Operator levy which are additional charges.**

199. Any further licences will only be issued subject to the vehicle being able to meet the council's criteria of Exceptionally Well Maintained standard. The vehicle will be subject to a strict examination to ensure full mechanical and cosmetic compliance with the stated criteria.
200. If a vehicle fails to meet the criteria it will be offered one further re-test which must be undertaken prior to the expiration of the vehicle licence. If the vehicle fails to meet the criteria upon re-test, the application for the renewal of the vehicle licence will be refused.
201. Details of all licensed vehicles are recorded in **Appendix 16**. The criteria applied for "exceptionally well maintained" is detailed in **Appendix 17** (exterior of vehicle) and **Appendix 18** (interior of vehicle).

202. The initial age of the vehicle will be extended from under 3 years to less than 5 years in respect of **purpose built vehicles only** i.e. London cabs and similar vehicles to encourage more purpose built wheelchair accessible vehicles in the fleet.
203. Age restrictions shall not apply where a licensed vehicle is converted from one type of licensed vehicle to another, provided the vehicle licence in respect of the initial vehicle licence is surrendered. The vehicle must be altered so as to comply fully with the requirements of the prospective licence in respect of the fitness, suitability, colour, size and type of vehicle, and any obligatory fixtures and fittings.

### **Accessibility**

204. The Council will licence both a purpose built wheelchair accessible vehicle and a vehicle that is suitable in size and design, and has been converted or adapted after the date of first registration to enable the carriage of a wheelchair. **This is provided that the conversion is carried out by an approved vehicle convertor such as the Wheelchair Accessible Vehicle Converters' Association and a certificate of fitting provided by the convertor is supplied as an original document.**
205. The exemption offered in respect of the 6 year age policy for purpose built wheelchair accessible vehicles such as London Cabs which may be licensed up to 10 years of age will not be offered to those vehicles which have been converted or adapted to carry wheelchairs.

### **Incentives**

206. A licensing incentive is given to all purpose built, fully accessible vehicles by way of a 25% reduction in the annual licence fee
207. A similar reduction will be given to all approved vehicles that have been adapted or converted to carry wheelchairs on production of written evidence that each driver has undertaken training in handling passengers with disabilities which the Council may from time to time approve.
208. Where a vehicle licence attracts an incentive there shall be an expectation that the vehicle shall be made available for a reasonable period each day for the carriage of disabled passengers unless the vehicle is mechanically unfit for use, at which time the vehicle licence will be suspended
209. An incentive may be withdrawn at any time should the Council receive complaints that the vehicle is not available for the use of passengers with disabilities.

### **Limitation of Numbers**

210. The present provisions on restriction of numbers for hackney carriages are set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed taxis "if, but only if, the local Authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet".
211. Any Local Authority that does restrict numbers is required to justify their policy every 3 years, in writing, to the Department for Transport. In addition this justification must feature in the 5 yearly Local Transport Plan.
212. Where a limitation on numbers is in effect, any new application for a hackney carriage vehicle licence which would be in excess of that number can be refused if the Council is satisfied that there is no significant unmet demand for taxi services within the area. An applicant whose licence is refused has a right of appeal to the Crown Court.
213. To establish whether or not there is unmet demand requires a survey to be conducted. The average price of such a survey is within the range of £23,000 to £30,000 and the cost would have to be met from the taxi licensing budget.

214. This issue has been raised by the Trade on many occasions. There has however been a downward trend in the number of hackney carriages licensed by the Council and in line with the DfT Best Practice guidance the Council does not intend to place a limit on the number of licences it will issue, relying instead on market forces to dictate the level of licence applications.
215. No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.

## **General Requirements for Vehicles**

### **Insurance**

216. All vehicles must have a current valid policy of insurance at all times appropriate to the vehicle which is qualified by a statement that this is subject to the appropriate local authority licences being held. This policy must be in place before a licence can be granted.
217. Certificates for private hire vehicles are not acceptable if they include cover for public hire purposes.
218. Individual certificates shall be provided for each vehicle. Fleet insurance policies will only be accepted for more than ten vehicles and either separate policies shall be provided when mixed fleets of private hire and hackney carriage vehicles are operated, or the certificate must contain a requirement that the cover is subject to the appropriate local authority licences being held and excluding cover for public hire from private hire vehicles. The schedules of vehicles covered must be produced by the insurance company and not the broker.
219. It is an offence to drive a vehicle without the appropriate insurance in place. Requests to produce insurance may be made during the term of the licence. These requests must be complied with in accordance with the time scales stipulated in the request.
220. If a vehicle is off the road and uninsured the proprietor must advise the Licensing Office in writing immediately or in any event within 72 hours.

### **Advertisements, Signs, Notices etc.**

221. No signs, notices, advertisements, video or audio display etc. or other markings shall be displayed on, in or from the vehicle subject to the following exceptions:
- a) Any sign, notice or other marking required to be displayed by legislation or any condition attached to this licence.
  - b) Signage or advertising approved in writing by the Council.
222. Signs, notices or advertisements must not be of a content that the Licensing Officer deems to be offensive or abusive. Further guidance as to the content of the advert may be sought from the Advertisement Standards Authority, [www.asa.org.uk](http://www.asa.org.uk)
223. No advertising on vehicles shall be allowed or affixed without prior approval of the Council and specifically shall not:
- a) Be affixed to any window of the vehicle.
  - b) Be affixed to any door or panel on which the Council issued roundel or sign is located. (Further information can be found in the appendices relating to vehicle conditions).
  - c) Be affixed to any part of the interior or exterior of any private hire vehicle operating under an Exemption Notice.
224. If advertising is permitted in the interior of the vehicle it shall be subject to the proviso that it does not detrimentally affect the safety or comfort of passengers, does not cause offence to passengers carried within the vehicle, and is not designed or intended to be viewed from the exterior of the vehicle
225. All advertisements shall be approved by the Council and any unauthorised advertisements will be required to be removed and appropriate action will be taken for failure to comply. Any queries regarding advertisements must be referred to the Council.

## Accident Notification

226. The proprietor is required by Section 50 (3) of The Local Government (Miscellaneous Provisions) Act 1976 to notify the Council in writing within 72 hours of any accident that results in damage to the vehicle.
227. The proprietor must comply with any request to either produce evidence of insurance for the vehicle and/or produce the vehicle for inspection so that its roadworthiness can be assessed. Any failure to do so is an offence and the appropriate action will be taken including suspension of the vehicle and potential prosecution for failure to produce insurance.
228. The proprietor shall submit the vehicle for any further testing and/or examination as requested by the Council and shall be responsible for the production of any independent engineers' reports considered necessary by the Council.
229. Where a vehicle has sustained accident damage and is subsequently declared an 'insurance write off' (i.e. in category A, B, C, D) and/or the V5 document is endorsed as being 'accident damaged' the vehicle will no longer be allowed to remain as a licensed vehicle.

## Vehicle and Meter Testing

230. All vehicles are required to undergo an inspection conducted by a vehicle examiner prior to being licensed and every 6 months thereafter. Any vehicles failing this test will be required to have a retest and the licence will be suspended.
231. Any vehicle which fails to be presented for a pre-arranged inspection at the Council's Testing station will be deemed to have failed the test. A further test and full payment of the test fee will be required and the vehicle licence shall be suspended until the test has been successfully undertaken.
232. A vehicle test may be cancelled by providing a minimum of 2 working days' notice, in writing, to the Licensing Section prior to the date of the test without loss of the test fee. The vehicle licence will however be suspended until such time as the vehicle test is successfully undertaken.
233. Evidence of taxi meter testing is also required. The Best Practice Guidance suggests that an annual test may be appropriate for all vehicles and that more frequent tests may be appropriate for older vehicles and suggests twice yearly for vehicles more than 5 years old. However given the large number of miles undertaken in any one year by licensed vehicles no change in the number of tests is proposed.
234. This policy is also currently in accordance with that of the Tees Valley Authorities and also reflects a national approach to vehicle testing by the majority of local authorities. Officers have analysed the number of vehicles under the age of 5 years that fail one or more tests per annum and the numbers are such to warrant the requirement of two tests per annum.
235. It shall be the proprietor's responsibility to ensure that their licensed vehicle is roadworthy, maintained to the Councils Exceptionally Well Maintained Criteria as defined in **Appendices 17 & 18** of this Policy and fit for hire and reward purposes at all times.

## Application Procedure

236. The following original documents, along with the appropriate fee are to be submitted in person or by post for new and replacement vehicle applications: **Photocopies relating to the above documents will not be acceptable at any time, emails and facsimiles will be accepted provided they are sent by the Company.**
- a) Application form. This must be from a named person(s) or Company.
  - b) The Vehicle registration document (V5) in the Applicant's name (Registered Keeper) <sup>4\*</sup> <sup>5</sup>
  - c) If available appropriate valid certificate of motor insurance<sup>6</sup>, public liability insurance<sup>7</sup>, and where appropriate employer liability insurance.
  - d) Vehicle test "Pass" certificate from the Council's In house testing station
  - e) A current MOT certificate for the vehicle or legal equivalent.<sup>8</sup>
  - f) Swivel seat installation certificate or proof of purchase (when applicable).
  - g) In the case of a wheelchair accessible vehicle Certification from the Vehicle Certification Agency (VCA) confirming that the vehicle meets the European Community Whole Vehicle Type Approval Standards in the M1 Category.
237. Although applications may be made by post, plates must be collected in person. Applicants may also wish to provide original documents in person. Postal applications for licence renewals should be made at least 7 working days prior to the licence expiry date to allow for the application to be processed.
238. Applications will not be determined until the Council receives all documents listed in paragraph 189 above. Only then will the application process be completed and the vehicle licence and plates will then be produced within one working day.
239. If the application is withdrawn the fee will be refundable minus the current admin charge. If an application is refused then the fee will be refundable minus the current admin charge unless the application is subject to appeal when further charges will be incurred and a refund will then not be given.
240. The Council has the discretion to attach, amend or remove a condition of licence.
241. Employer liability insurance shall not be required if the vehicle is to be driven by persons named on the licence as joint proprietors. Such persons will have a material, beneficial and/or controlling interest in the vehicle and should be able to provide acceptable written evidence of this on request to the Council and/or Her Majesty's Revenue and Customs. (HMRC)
242. Proprietors should be aware that the Council is obliged to provide information in respect of joint proprietors to any government office, if requested to do so by any officer acting in an official capacity

## Transfer of Interest

243. The proprietor shall notify the Council on the appropriate form, giving the name and address of the new proprietor, within 14 days if the interest in the vehicle is transferred to another person not currently named on the licence. If the interest is transferred to a person currently named on the licence the Council should be advised in writing and will remove the outgoing proprietor.

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<sup>4\*</sup> **Note the vehicle licence and identification plates will not be issued until the correct documentation has been provided. Where the vehicle is a newly purchased vehicle, a temporary licence and vehicle licence plate will be issued on the production of proof of purchase from a reputable car sales outlet**

<sup>5</sup> **The DVLA will be abolishing the V5 (logbook) in 2015. Once we have a time frame when this will happen, the Council will seek an alternative method to access details of the current keeper and vehicle details**

<sup>6</sup> **See paragraphs 171 to 173 re types of insurance cover which is acceptable**

<sup>7</sup> **£5 million - minimum**

<sup>8</sup> **An MOT certificate is required in respect of a hackney carriage at 1 year of age, and in the case of a private hire vehicle at 3 years of age**

244. The new proprietor shall provide the following documents to the Council:
- a) Vehicle registration document in new proprietor's name within 28 days.
  - b) Appropriate valid certificates of insurance.

### **Change of Address**

245. The proprietor must advise the Council in writing within 7 days of a change of address during the period of the licence.

### **CCTV In Vehicles**

246. The Department for Transport Best Practice Guidance recommends that licensing authorities look sympathetically on or even actively encourage the installation of security measures such as a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers. It is not currently proposed that such measures should be required as part of the licensing regime at this time, and it is considered that they are best left to the judgement of the owners and drivers themselves.
247. If CCTV is installed, the proprietor of any vehicle with CCTV must notify the Council and display a sign approved by the Council advising passengers that a CCTV system is in operation in the vehicle.
248. Where CCTV is in place there is an expectation that it is in working order when passengers are being carried. The CCTV system should be maintained to the manufacturer's standards and recording must be retained for 28 days and made available for viewing by a Police Officer or an authorised officer of the Council on request. Any failure to comply with this request will be reported to the Council.
249. Any reports of misuse of CCTV or recorded images may result in the immediate referral to the Licensing Committee with a view to suspending both the vehicle and driver licences.<sup>9</sup>

### **Tinted Windows**

250. The Council's specification relating to the use of tinted windows in licensed vehicles is as follows:
- a) The windscreen shall have a minimum light transmission of 75%
  - b) All other windows of any vehicle shall have a minimum of 70% light transmission, unless the following criteria can be met in which case there will be no minimum light transmission.
251. The minimum light transmission criteria is relaxed in the following circumstances:
- a) The windscreen<sup>10</sup> and front side windows<sup>11</sup> of any vehicle exempt from the criteria, when the vehicle is an executive hire or novelty hire vehicle or stretched limousine operating under an Exemption Notice, and
  - b) The vehicle will not be engaged at all in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years unless accompanied by an adult other than the driver). The driver must not act as the accompanying adult, and
  - c) Written approval has been given by the Council.

NB any exemption granted by the council does not remove the need for compliance with the relevant Construction and Use Regulations.

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<sup>9</sup> The Information Commissioners Office (ICO) states that CCTV in Hackney Carriages and Private Hire Vehicles is covered by the Data Protection Act and as such, conversations between members of the public must not be recorded on CCTV during the normal course of a journey where images are being recorded. (There are some specific exceptions to this, such as a panic button in a taxi cab)

<sup>10</sup> The front windscreen must let at least 75% of light through.

<sup>11</sup> the front side windows must let at least 70% of light through

## Environmental Considerations

252. The DfT guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they may have adopted, bearing in mind the need to ensure that benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.
253. Hackney carriage and private hire vehicles are an essential form of transport in the Darlington Council area. Many people depend on such vehicles for trips that buses are unable to fulfil.
254. Licensed vehicles often achieve higher occupancy rates than a private car and so to some extent already play their part in helping to achieve environmental improvements in the Borough. It is, however, clearly important that emissions from hackney carriage and private hire vehicles are reduced as far as possible.
255. It is therefore proposed that efforts should be made to improve, as far as possible, the efficiency of licensed hackney carriage and private hire vehicles by, in particular, reducing the levels of CO<sub>2</sub> emitted.
256. Certain types of fuel efficient vehicles will be offered a 25% reduction in licensing fees. Vehicles types include:
- Liquid petroleum gas (LPG)<sup>12</sup>
  - petrol-electric
  - electric
  - compressed natural gas (NGV)
257. Other alternative fuels will be considered to qualify for a reduction in the licence fee as technology improves.
258. Clearly emissions from hackney carriage and private hire vehicles could be reduced further by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at taxi ranks. It is, however, proposed that this aspect be tackled through education and promotion.

## European Emission Standards

259. Darlington Borough Council has noted the advice given by the DfT to consider how far their vehicle licensing policies can and should support any local environmental initiatives by, perhaps, setting vehicle emissions standards or promoting cleaner fuels.
260. In their advice the Government has suggested that, by adopting targeted air quality policies for road transport, significant reductions can be achieved for noxious pollutants in the atmosphere.
261. It highlights the impact European wide emission limits are having on improving air quality. In private cars, these standards were introduced for new vehicles as follows:
- a) Euro I – mandatory for new cars from 1993
  - b) Euro II – mandatory for new cars from 1997
  - c) Euro III – mandatory for new cars from 2001
  - d) Euro IV – mandatory for new cars from 2006
  - e) Euro V - mandatory for new cars from 2011.
  - f) Euro VI – mandatory for new cars from September 2015

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<sup>12</sup> Conversions to vehicles licensed or to be licensed to make use of LPG are acceptable. Any conversion to LPG must be done by an approved converter and the conversion certificate produced to the Council for inspection.

In most cases the conversion involves the fitting of a “doughnut tank” in the space occupied by the spare wheel. It will be conditional that any spare wheel displaced as a result of any conversion must be stored in a location that does not impinge on the passenger carrying area of the vehicle.

262. In the interests of the environment tougher emissions standards will be introduced for all licensed vehicles. These standards will be phased, with strict retirement dates for vehicles that fail to meet the latest standards.
263. The stricter emission standard of Euro VI for new or replacement vehicles came into effect in September 2015. Any new standards will then be phased in annually from 1 April each year. The effect of this will be that vehicles over the age of 6 years may struggle to meet the requisite emission standard and may no longer enjoy the “exceptionally well maintained” provisions.
264. Applications from proprietors of “classic” vehicles older than 12 years and purpose built wheelchair accessible vehicles will be exempt from this requirement. This exemption will be kept under review.

### **Demand Responsive Transport**

265. The Council welcomes initiatives such as taxi sharing schemes and taxi buses and the environmental and improved service benefits that they bring. The Council recognises that these services can play a valuable role in meeting a range of transport needs and is keen to promote such services in order to increase the availability of transport to the travelling public. The Council will work with service providers to bring about such schemes where there is a demand for them.
266. The main legal provisions under which flexible services can be operated are listed below.

### **Shared Taxis - Immediate Hirings (Section 10, Transport Act 1985)**

267. The local authority can develop a scheme whereby hackney carriages can be hired at separate fares by up to eight people from ranks or other places that have been designated by the authority. The authority is required to set up such a scheme if holders of 10% or more of the hackney carriage proprietors in the Borough ask for one. The success or otherwise of such a scheme is dependent on the agreement of the passengers.

### **Shared Taxis and Private Hire Vehicles – (Advance Bookings, Section 11, Transport Act 1985)**

268. Hackney carriage and private hire vehicles can provide a service at separate fares for up to eight passengers sharing the vehicle. The operator takes the initiative to match up passengers who book in advance and agree to share the vehicle at separate fares lower than that for a single hiring.

### **Taxi buses (Section 12, Transport Act 1985)**

269. Hackney carriage proprietors can apply to the Traffic Commissioner for a 'restricted public service vehicle PSV operator licence'. The hackney carriage proprietor can use the vehicle to run a bus service for up to eight passengers.
270. The route must be registered with the Traffic Commissioner and must have at least one stopping place in the area of the local authority that licensed the hackney carriage, though it can go beyond it. This provision is also being extended to Private hire vehicles.



## PRIVATE HIRE OPERATORS

• <b>Requirements and Obligations</b>	paragraph(s)	271 – 276
• <b>Operator Legislation Tests</b>	paragraph	277
• <b>Criminal Record Checks</b>	paragraph(s)	278 – 283
• <b>Conditions</b>	paragraph(s)	284 – 285
• <b>Insurance</b>	paragraph	286
• <b>Planning Consent</b>	paragraph	287
• <b>Application Procedure</b>	paragraph(s)	288 – 289
• <b>Licence Duration</b>	paragraph(s)	290 – 294
• <b>Address from which an Operator may operate</b>	paragraph(s)	295 – 298
• <b>Record Keeping</b>	paragraph(s)	299 - 300
• <b>Sub-Contracting of Private Hire Bookings</b>	Paragraph(s)	301 - 302
• <b>Change of Home Address</b>	paragraph	303
• <b>Convictions/Cautions</b>	paragraph(s)	304
• <b>Complaints</b>	paragraph(s)	305 – 306
• <b>Material Changes</b>	paragraph	307

### Requirements and Obligations

271. Any person who operates private hire vehicles must apply to the Council for a private hire operator licence. The objective in licensing private hire operators is to ensure the protection of the public who will be using the operator's premises and the vehicles and drivers arranged through them.
272. A private hire vehicle may only be despatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.
273. A private hire operator must ensure that every private hire vehicle despatched by him is licensed and driven by a person who holds a private hire driver's licence issued by the Council. It is a criminal offence to operate a private hire vehicle and/or driver without an operator's licence.
274. Operators need to familiarise themselves with the law and ensure they employ suitable work methods in order to comply with the law and avoid committing licensing offences.
275. It is a condition of licence that the applicant operates from premises within the controlled district of the Council.
276. The Licensing Office may require sight of a business plan or request additional information for new applications.

### Operator Legislation Tests

277. All new applicants for a Private Hire Operator Licence shall be required to successfully undertake a knowledge test relating to relevant legislation, licence conditions and policies. In the case of a Limited Company, this shall apply to the Company Secretary and Managing Director.

### Criminal Record Checks

278. Private Hire Operator licences can only be granted to persons that the Council are satisfied are fit and proper.

279. At the present time the Council is not able to obtain a DBS disclosure on applicants for Private Hire Operator licences and if the applicant is not a licensed driver reliance has to be placed on the information requested on the application form and any additional information if requested and during interview with the applicant. This is a position of trust as operators gain detailed knowledge as to a person's movements, travel arrangements etc.
280. Before an application for a Private Hire Operator licence will be considered the applicant must provide a certificate or search results on criminal convictions obtained within the last month which can be either:
- a) a criminal conviction certificate issued under The Police Act 1997; or
  - b) the results of a subject access search under Data Protection Act 1998 of the Police National Computer by the National Identification Service.
281. If the applicant is currently licensed as a driver with the Council they will be exempt from this requirement as they will have already undergone a DBS check.
282. Applicants for renewal of a Private Hire Operator licence who are not licensed as drivers will be required to provide a new certificate or search results every 5<sup>th</sup> year
283. All new applicants for a Private Hire Operator licence shall be referred to the Licensing Committee for determination (see **Appendix 7** re the relevance of convictions and **Appendix 23** re referral to the Licensing Committee).

### **Conditions**

284. The Council has the power to impose such conditions on an operator's licence as it considers reasonably necessary.
285. **Appendix 21** sets out the legislation and policies pertinent to Private Hire Operators which cover the standards of service expected and the conditions to be attached to an operator licence.

### **Insurance**

286. Applicants are required to produce appropriate public liability insurance (£5 million) and employer liability insurance.

### **Planning Consent**

287. Applicants are required to obtain planning consent, where necessary, for the premises from which they intend to operate. The Planning Authority will be consulted as part of the application for a Private Hire Operator Licence and their comments may be taken into account when determining whether the licence should be granted. The Licensing Manager has the discretion to refer any renewal application to the Licensing Committee.

### **Application Procedure**

288. The following documents are to be submitted in person or by post for a new or renewal application:
- a) Application form
  - b) Details of all vehicles and drivers to be operated
  - c) Certificate or search results on criminal convictions (if not currently licensed as a driver) obtained within the last month
  - d) Public liability/employer liability insurance certificates
  - e) Licence fee
289. Officers may require a site visit prior to the determination of the licence.

## Licence Duration

290. New applicants and applicants for renewal of licence be offered the opportunity to make an application for a 5 year licence in those cases where there are not any issues concerning the application.
291. Applicants for grant and renewal of a Private Hire Operator licence who are not licensed as drivers will be required to provide a new certificate or search results every fifth year to facilitate the longer licensing period.
292. Private Hire Operators holding a 5 year licence will be required to attend the Licensing Section annually to make a declaration that they have not accrued any criminal convictions, cautions, reprimands or final warnings within the preceding 12 months and that there has not been any change in the operation of the business also. Licence holders will be required to sign a declaration that they will be liable for prosecution if they make a false declaration or omit to provide any requisite information.
293. Licences which exceed one year, will be subject to a higher licence fee.
294. Applicants can chose to apply for a one year licence

## Address from which an Operator May Operate

295. Upon grant of an operator's licence the Council will specify the address from which the operator may operate.
296. These premises **must be** in the controlled district of the Council, and will be expected to have planning consent for use as a private hire office where deemed applicable. If an operator wishes to change the base from which they operate they must make a fresh application.
297. Because of the potential for nuisance to residents associated with the parking of vehicles whilst they are waiting to be allocated work, a condition will be placed on operator licences requiring them to identify specific locations as bases where they would park their vehicles when waiting for bookings.
298. A condition will also be placed on operator licences requiring operators to operate only hackney carriage and private hire vehicles and drivers that have been licensed by Darlington Council. This is to ensure that the travelling public of Darlington are provided with a consistent standard of service.

## Record Keeping

299. Operators are required to keep records of each booking, including the name of the passenger, the destination, the name of the driver, the number of the vehicle and any fare quoted at the time of booking. **Appendix 21** refers.
300. Records should be preserved for a period of not less than 12 months and be available for inspection at the request of an Officer of the Council or Police.

## Sub-contracting of private hire bookings

301. Operators are required to keep a record of every sub contract made with the operator or arranged by the operator.
302. The operator must ensure that the same standard of vehicle and driver that would normally be dispatched by the operator is provided by the sub-contractor.

### **Change of Home Address**

303. The operator must advise the Council in writing of any change of his home address within 7 days of such a change taking place.

### **Convictions/Cautions**

304. The operator shall disclose to the Council within 7 days in writing of any conviction or caution (s)he receives.

### **Complaints**

305. The operator must advise the Council within 7 days of any complaints received concerning a contract for hire or purported contract for hire relating to or arising from his/her business and the action that the operator proposes to take. These details will be kept on file.
306. Where the Council becomes aware of any complaint and investigates it, the Operator shall comply with any reasonable request or directive issued by the investigating officer.

### **Material Change**

307. A Private Hire Operator Licence is not transferable and operators must notify any proposed changes to the person(s) authorised to operate under the terms of the licence to the Council immediately in writing.

## GENERAL

• <b>Fares</b>	paragraph(s)	308 – 312
• <b>Table of Fares</b>	paragraph	313
• <b>Receipts</b>	paragraph	314
• <b>Overcharging</b>	paragraph	315
• <b>Fees</b>	paragraph(s)	316 – 317
• <b>Variation to Fee Structure</b>	paragraph(s)	318 – 320
• <b>Payments</b>	paragraph(s)	321 – 322
• <b>Payment Credit &amp; Reduced Fees</b>	paragraph(s)	323 - 327

## FARES

308. Councils have the power to set hackney carriage fares for journeys within their area. Hackney carriage fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.
309. The Council will review the table of fares when requested by the Trade. When determining the level of fares consideration will be given to what is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a service at all times it is needed.
310. A notice of any variation to the maximum fare will be advertised in a local newspaper with a date set 14 days from publication for making objections to the proposed variation. If no objections are received the fare variation will have effect on a day specified at the end of the 14 day consultation period. If any objections are received the matter will be referred to Cabinet for consideration and a further implementation date will be set.
311. The Council is not able to set fares for private hire vehicles. It is a matter for negotiation between the hirer and operator at the time of booking and the operator should make this clear. When a hackney carriage vehicle is used for private hire services the fare charged cannot exceed that which would be charged under the table of fares applicable to hackney carriages.
312. When a journey ends outside of the Council's area a fare greater than that shown on the meter may be charged but only if an agreement has been made with the hirer in advance. In the absence of such an agreement, only the metered fare can be charged. Failure to comply is an offence.

### Table of Fares

313. A table of fares will be provided to each hackney carriage licence holder, which must be displayed in each vehicle so that it is easily visible to all hirers. This requirement shall apply equally to private hire vehicles where a meter is fitted

### Receipts

314. A driver must, if requested by the hirer, provide a written receipt for the fare paid.

### Overcharging

315. All meters must be calibrated to the correct fare scale. It is an offence for the driver to demand more than the fare shown on the meter. If this should occur the driver will be prosecuted.

## Fee Structure

316. The legislation provides that the fees charged should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands and administering the control and supervision of hackney carriages and private hire vehicles.
317. The current fees payable for the grant and renewal of hackney carriage and private hire licences are available from the Licensing Office and the Councils website.

## Variations to Fee Structure

318. The fee structure is reviewed annually as part of the budgetary process. Notice of the current scale of fees will be supplied to new applicants at the time of application.
319. A notice of any variation to the maximum fees in respect of vehicles and operators will be advertised in a local newspaper with a date set 28 days from publication for making objections to the variation of fees.
320. If no objections are received the fee variation will have immediate effect at the end of the 28 day consultation period (or at a later date as indicated by the Council). If any objections are received the matter will be considered by the Council.

## Payments

321. Licences which commence part way through a month will terminate in the following year (or anniversary of 1st registration of vehicle) on the last day of the preceding month. Payments can be made in the form of cash in person or cheques made payable to Darlington Borough Council, which can be accepted at the Licensing Office.
322. If cheques are returned "refer to drawer" a £15 charge shall be levied against the applicant and all future applications will normally have to be made with cash payments.

## Payment Credit

323. Fees paid in relation to hackney carriage and private hire vehicle licences will be subject to a partial credit on the unexpired portion of the licence should the proprietor choose to surrender their licence during the period of the licence. This credit **must** be used to offset the cost of a new vehicle licence. The amount of credit shall be determined by the Council and an administration fee will also be levied. Credit will only be allowed where:-
  - a) The vehicle licence is surrendered correctly
  - b) A request for credit has been made in writing
  - c) The plates and licence have been surrendered
  - d) The credit is used during the current financial year.
324. The total credit will be calculated as the licence fee minus the current administration fee, divided by 12 months and then multiplied by the **whole** months remaining on the licence.
325. Once surrendered the vehicle will not be licensed by the Council unless it is less than 3 years of age at the time the application is made (or less than 5 years in respect of purpose built wheelchair accessible vehicles).
326. **No cash alternative shall be offered at any time**

## Reduced Fees for Vehicle Licences

327. Where a vehicle will reach its 6th anniversary during the period of a licence a reduced fee will be calculated as follows: the current administration fee plus the difference between the remaining annual licence fee, divided by 12 months and then multiplied by the number of months from the start of the licence period to the 6th anniversary (part months will be charged as full months).

## CONVICTIONS, CAUTIONS, CONDUCT AND MEDICAL FITNESS

- **Hackney Carriage and Private Hire Drivers** paragraph(s) 328 – 331
- **Private Hire Operators** paragraph(s) 332 – 333
- **Rehabilitation of Offenders** paragraph 334
- **Section A Guidance as to the Relevance of Convictions / Cautions and Fixed Penalty Notices** paragraph(s) 335 – 346
- **Section B Conduct** paragraph(s) 347 – 353

### Hackney Carriage and Private Hire Drivers

328. When an application is made for a hackney carriage or private hire driver licence the Council must be satisfied that the applicant is a **fit and proper** person before issuing the licence. By law the Council shall not licence drivers unless they are satisfied of this (s.51 and s.59 Local Government (Miscellaneous Provisions) Act 1976).
329. The legislation is worded in such a way as to put the onus on the applicant to prove they are a fit and proper person, rather than for the Council to prove that they are not. If adequate evidence that a person is a fit and proper person is not adduced or if there are grounds to question or doubt the evidence provided, then that could amount to good reason to refuse a licence.
330. In addition, the Council may:
- a) suspend; or
  - b) revoke; or
  - c) refuse to renew a hackney carriage or private hire driver licence if the licensee:
  - d) has been convicted of an offence involving dishonesty, indecency or violence; or
  - e) has been convicted of a private hire/hackney carriage licensing offence; or for any other reasonable cause\*. (s.61 LG(MP) Act 1976)
- \*Reasonable cause will include other convictions, cautions, fixed penalties, medical fitness and conduct.
331. If it appears in the interests of public safety to do so then a suspension or revocation will have immediate effect and the driver will be given notice of that decision. The effect of this decision will mean that a driver cannot continue to drive should an appeal be made against the decision. (Section 52 Road Safety Act 2006)

### Operators

332. The Council must also be satisfied that applicants for operator licences are fit and proper before issuing a licence. These guidelines will therefore be referred to when considering an Operator Licence Application.
333. It is accepted that the Operator does not have the same level of direct contact with the public as they will not drive the customer (unless s/he also holds a private hire driver's licence). However, it is acknowledged that the Operator will be in possession of information about people's whereabouts and movements and will deal with the public either face to face or over the telephone and therefore there is a need for them to fit and proper people.

### Rehabilitation of Offenders Act 1974

334. Hackney Carriage and Private Hire drivers are excluded from the effects of the Rehabilitation of Offenders Act 1974. All relevant convictions, including spent convictions, may therefore be considered.

### Guidance as to the Relevance of Convictions, Cautions and Endorseable Fixed Penalties

#### General Policy

335. The Council has guidelines on the Relevance of Convictions (see **Appendix 7**). These are intended to assist Licensing Officers and the Committee in decision making and to ensure a consistent approach is maintained. However, each case is to be decided upon its own merits and Officers and the Committee may not adhere rigidly to the guidelines if there are exceptional circumstances, which warrant a departure. Similarly simply remaining free of conviction will not generally be regarded as sufficient evidence that a person is a fit and proper person to hold a licence.
336. It may be appropriate to depart from the general policy in some cases, for example, situations where the offence is isolated and there are strong and exceptional mitigating circumstances.
337. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. Members will consider the proliferation and the totality of the offences, convictions, cautions, complaints etc. when deciding if a person is a fit and proper person.
338. Where there has been a conviction for a sexual offence, murder or manslaughter a licence will normally be refused unless there is an **exceptional** reason to depart from the Policy.
339. Where an applicant has served a custodial sentence the Council will consider the number of years since their release and the period for which they have been free of conviction when determining their fitness to be licensed. Time spent in custody will generally be discounted from the conviction free period.
340. Where there is a pattern of offences, such as numerous convictions for violence, etc., the whole of the applicant's/licensee's criminal convictions will be taken into account, along with any complaints about their conduct or behaviour.
341. The guidelines should assist applicants and licensees and those that represent them by clearly setting out the expectations the Council has in relation to the behaviour of applicants/licensees. This should also minimise the time (and associated costs) spent by both the Council and applicants/licensees
342. These guidelines will be taken into account and in general will be followed when dealing with a new application, a renewal application and when considering whether to issue a warning, suspend or revoke an existing licence.
343. The aim of these guidelines is not to punish the applicant/licensee twice for a conviction or caution but to ensure that public safety is not compromised and to protect the public from those who have demonstrated a propensity toward wrongdoing.
344. In considering evidence of an applicant's good character and fitness to hold a driver licence, where previous convictions or other information relating to criminal matters is disclosed, the Council will consider the nature of the offence, when it was committed, the date of conviction, the applicant's age when the offence was committed and any other factors which might be relevant. However, where an applicant has been convicted of a criminal offence, the Council cannot look behind the conviction [Nottingham City Council v Mohammed Farooq (1998)].
345. The guidelines do not deal with every type of offence. However, offences described in the guidelines and similar offences will be taken into account in accordance with the guidelines.



## **Formal Cautions and Fixed Penalties**

346. For the purpose of the guidelines, formal cautions and fixed penalties shall be treated as though they were convictions.

## **Section B – Conduct**

347. Criminal convictions are not the only criteria used when considering whether an individual is a fit and proper person to be licensed. Other factors, including the applicant's or licensee's demeanour, appearance and behaviour, and any previous complaints or warnings may be taken into account in determining fitness and propriety.
348. The Council may require an applicant to submit additional information it reasonably considers necessary to enable it to determine whether a licence should be granted or whether conditions should be attached (s.57 LG(MP) Act 1976).
349. The Courts have established that the licensing regime exists to prevent licences being given to or used by those who are not suitable, taking into account their previous criminal history, driving record, driving experience, sobriety, mental and physical fitness, honesty and ensuring that they would not take advantage of their employment to abuse or assault passengers.
350. When determining the fitness and propriety of drivers, Council Officers and Members will consider whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom they care, to get into a vehicle with the applicant/licensee alone.
351. If the answer to this question is an unqualified yes, then the test is probably satisfied. If, on the balance of probabilities, the Officers or Members have doubts then further consideration will be given as to whether the individual is a fit and proper person.
352. The Council may also consider circumstances of concern even though a conviction has not been obtained or the conduct does not amount to a criminal offence.
353. The Council's focus is upon the impact of the applicant or licence holder upon members of the public. This does not require any consideration of the personal circumstances of the applicant or licensee, which are irrelevant, except perhaps in very rare cases to explain or excuse some conduct of the driver.

## ENFORCEMENT, DISCIPLINE AND OFFENCES

This chapter provides an overview of enforcement and disciplinary action and the main offences concerned with the Private Hire and Hackney Carriage trade. It is not intended to be an exhaustive list. **It does not constitute legal advice.**

- **Council Officers and the Licensing Committee** paragraph(s) 354 - 358`
- **Enforcement / Disciplinary Options** paragraph(s) 359 – 366
- **Informal Action** paragraph(s) 367 – 371
- **Suspension / Revocation or Refusal to Renew Licence**
  - Driver Licences** paragraph(s) 372 – 374
  - Vehicle Licences** paragraph(s) 375 – 378
  - Operator Licences** paragraph(s) 379 – 380
- **Stay of Action pending Appeal Outcome** paragraph(s) 381 – 386
- **Requests for Insurance** paragraph(s) 387
- **Cautions** paragraph(s) 388 – 389
- **Prosecution** paragraph(s) 390 – 391
- **Offence Sections**
- **Town Police Clauses Act – Hackney Carriages** paragraph 392
- **Local Government (Miscellaneous Provisions) Act 1976 – Hackney Carriage Provisions** paragraph 392 (a)
- **Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Provisions** paragraph 392 (b)
- **Transport Act 1980 – Private Hire Provisions** paragraph 393
- **Road Traffic Act 1988 – Vehicle Insurance** paragraph 394
- **Criminal Justice and Public Order Act 1994 – Touting** paragraph 395
- **Health Act 2006 – Smoking** paragraph 396
- **Hackney Carriage Byelaws** paragraph 397
- **Equality Act 2010** paragraph 398

### Council Officers and the Licensing Committee

354. Whilst the operation of a successful Hackney Carriage and Private Hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service.
355. Enforcement of hackney carriage and private hire matters is undertaken by the Council. The Police may also take action in certain circumstances.
356. Officers of the Council (usually Licensing Enforcement Officers) are authorised by the Council to undertake enforcement work. The Assistant Director of Regulatory Services authorises such officers. In undertaking such work the Officers will comply with the appropriate Enforcement Policy Statement. Enforcement work includes routine checks and inspections, investigating complaints made about drivers, vehicles and operators in addition to matters observed by Officers e.g. vehicle defects. The Council can consider circumstances of concern even though a conviction has not been obtained or the conduct does not amount to a criminal offence.
357. The Council may take appropriate disciplinary action against licensees in accordance with this policy.

358. The Council's Licensing Committee may also determine the appropriate disciplinary action (if any) to take against licensees referred to it. The procedure for referral to Committee and the Committee procedure are detailed at **Appendix 22**

## **Enforcement/Disciplinary Options**

359. There are various options to take depending upon the circumstances including:
- a) Take no action
  - b) Take informal action, including warning letters and referral to Driver Improvement Scheme
  - c) Suspend a licence
  - d) Revoke a licence
  - e) Refuse to renew a licence
  - f) Use statutory and other notices/requests
  - g) Use formal cautions
  - h) Prosecute
  - i) Obtain an injunction
360. Only the Licensing Committee can revoke a licence or require that a driver attends the Driver Improvement Scheme.
361. The Licensing Manager may suspend a driver licence of a licensed hackney carriage or private hire licence holder where the driver:
- a) fails to comply with Group II requirements as defined in the DVLA Current Medical Standards of Fitness to Drive,
  - b) is arrested, charged or accused of an offence involving serious violence, stalking, supply of a controlled substance, rape, sexual assault or inappropriate conduct with a minor or vulnerable person.\*
- \* in certain cases the support from the Council's Local Authority Designated Officer (LADO) will be sought in making a decision to suspend a driver's licence.
362. Where a driver licence is suspended by the Licensing Manager, the driver may appeal to the Magistrates Courts within 21 days of the suspension and will also be referred to the next Licensing Committee.
- If the Licensing Manager considers it necessary to apply the provisions of Section 61 2B of the Local Government (Miscellaneous Provisions) Act 1976, then any right of appeal will not enable a driver to continue to drive licensed vehicles
363. An Authorised Officer can suspend a vehicle licence where the vehicle:-
- a) fails to pass its biannual vehicle test for serious defects
  - b) has sustained accident damage which may materially affect the safety, performance or appearance of the vehicle or the comfort or convenience of passengers.
  - c) does not have current appropriate insurance which covers the vehicle and driver for the purpose to which the vehicle is to be used
  - d) does not have a current MOT or Vehicle Excise Duty
  - e) driver is not licenced to drive the vehicle or his/her licence to drive such a vehicle is suspended or revoked unless there is an alternative driver who has appropriate insurance cover to drive the vehicle.
  - f) fails to attend a pre-arranged vehicle test or where the test is cancelled with 2 working days' notice.
364. If a vehicle has been suspended in accordance with Section 68 of the 1976 Act (fitness of vehicle or taximeter) the vehicle proprietor does not have the right to appeal this decision to the Magistrates Courts unless the licence is automatically revoked after a 2 month period. If a

vehicle is suspended under Section 60 of the 1976 Act (fitness/offences/reasonable cause) the vehicle proprietor shall have the right to appeal any such suspension at the Magistrates Court.

365. An Authorised Officer may refuse to renew the vehicle licence where the vehicle has attained the age of 6 years (ten years for purpose built vehicles) and has failed to meet the Council's required exceptionally well maintained criteria on two separate occasions

### **Informal Action**

366. Informal action may be used to secure compliance with the legislation and policy including offering advice, verbal and written warnings and requests for action.
367. Informal action may be appropriate where:
- a) the act or omission is not serious enough to warrant more formal action;
  - b) from the individual licensee's history it can be reasonably expected that informal action will achieve compliance;
  - c) the consequences of non-compliance will not pose a significant risk to the safety of the public.
368. Even where the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.
369. Repeated incidents of licence infringements, complaints etc. are likely to lead to action being taken against the licensee or a referral to the Licensing Committee.
370. Existing licensed drivers who attain 9 penalty points on their DVLA drivers licence for offences relating to their standard of driving **or** have a poor driving history will be referred to the Licensing committee and Members will be invited to require attendance at the Driver Improvement Scheme, at the driver's expense.

## **SUSPENSION, REVOCATION OR REFUSAL TO RENEW A LICENCE**

### **Driver Licences - Section 61**

371. The Council may suspend or revoke or refuse to renew a driver licence (private hire or hackney carriage) on any of the following grounds:
- a) that since the grant of the licence the licensee has been convicted of an offence involving dishonesty, indecency or violence; or
  - b) that since the grant of the licence the licensee has been convicted of an offence under or has failed to comply with Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976; or
  - c) any other reasonable cause.
372. In addition the following revisions to Section 61 were introduced under Section 52 of The Road Safety Act 2006:
- a) (2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which the notice is given to the driver under subsection (2)(a) of this section.
  - b) (2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

373. Where the Council suspends, revokes or refuses to renew a driver licence under s.61 LG (MP) Act 1976 it shall give the driver written notice of the grounds for the decision within fourteen days. The driver must return to the Council the Driver badge. The driver may appeal to a Magistrates' Court. Any appeal must be lodged within 21 days of notification of the decision. Except in the case of a s52 Road Safety Act suspension the driver badge may be retained once an appeal is lodged at the Magistrates Courts.

### **Suspension of Vehicle Licence - Section 68 Notices**

374. An authorised officer (or police officer) has the power at all reasonable times to inspect and test any hackney carriage or private hire vehicle (or taximeter affixed to such a vehicle) licensed by the Council to ascertain its fitness. If s/he is not satisfied as to the fitness of the vehicle or the accuracy of the taximeter s/he may by a written notice require the proprietor to make the vehicle or taximeter available for further inspection and testing at a reasonable time and place specified in the notice. **Vehicles which are not presented for pre-arranged tests or have such tests cancelled cannot satisfy the Officer that the vehicle is fit for use and will therefore be suspended.**

The officer may suspend the vehicle licence until such time as they are satisfied as to fitness/accuracy (section 68 of the 1976 Act). Suspension under s.68 takes immediate effect. There is no right of appeal against such a suspension.

375. If after 2 months from the issue of the suspension notice, the officer is not satisfied of the fitness/accuracy of the vehicle, the vehicle licence will be revoked in accordance with the legislation. The proprietor shall be given written notice of the revocation. Such matters therefore do not need to be referred to the Licensing Committee. There is a right of appeal against the revocation of the licence and any appeal must be lodged within 21 days of notification of the decision.

### **Suspension of Vehicle Licences - Section 60 Notices**

376. The Council may suspend or revoke or refuse to renew a vehicle licence (private hire or hackney carriage) on any of the following grounds:
- a) that the vehicle is unfit for use;
  - b) the operator or driver has committed any offence under or has not complied with the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976; or
  - c) any other reasonable cause

Among other things, "any reasonable cause" will include non-production of evidence of insurance.

377. Where the Council suspends, revokes or refuses to renew a vehicle licence under section 60 of the 1976 Act it shall give the proprietor written notice of the grounds for the decision within fourteen days. The proprietor may appeal to a Magistrates' Court. Any appeal must be lodged within 21 days of notification of the decision. Failure to provide insurance may result in a section 60 suspension.

### **Operator Licences - Section 62**

378. The Council may suspend or revoke or refuse to renew an operator licence on any of the following grounds:
- a) any offence under or non-compliance with Part II of the Local Government (Miscellaneous Provisions) Act 1976;
  - b) any conduct on the part of the operator which appears to render him unfit to hold an operator's licence;

- c) any material change since the licences was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
- d) any other reasonable cause.

379. Where the Council suspends, revokes or refuses to renew an operator licence under section 62 of the 1976 Act it shall give the operator written notice of the grounds for the decision within fourteen days. The operator may appeal to a Magistrates Court. Any appeal must be lodged within 21 days of notification of the decision.

### **Stay of Action Pending Outcome of Court Appeal**

- 380. Section 77 (2) of the 1976 Act stays any action against a licence pending the outcome of the Court appeal. This means that if a driver, operator or proprietor appeals against a decision to refuse to renew, suspend or revoke his licence, the licence is deemed to remain in force until the appeal has been determined (but see paragraph 283 below re s52 Road Safety Act suspensions).
- 381. The licensee has 21 days from notification of the decision to lodge an appeal with the Court. The licensee can continue to use the licence during that period and once an appeal is lodged, can continue to use it until the appeal has been dealt with.
- 382. If the Magistrates Courts dismiss the appeal the licensee has 21 days within which to lodge an appeal in the Crown Court and again, can continue to use the licence until the appeal is determined.
- 383. The Council may decide that a suspension or revocation of a driver licence should take immediate effect where they consider it is in the interests of public safety to do so. In such cases the notice given to the driver must include a statement that it is an immediate suspension/revocation and an explanation why. In this case the suspension or revocation takes effect when the notice is given to the driver and the driver **will not** be able to continue working pending any appeal.
- 384. Where a licensee's Court appeal is unsuccessful the Court may order them to pay the Council's costs. Where an appeal is successful but the Council has acted in good faith costs may not be ordered against the Council.
- 385. The 21 day period in which to appeal is rigid and appeals cannot be made after this time (Case Law: Stockton Borough Council v Latif 20 January 2009).

### **Requests for Insurance**

- 386. The Council has a programme whereby requests to produce renewed insurance are sent to proprietors before they are due to expire. If a valid insurance is then not produced the vehicle licence will be suspended and the proprietor may be prosecuted (s.50 LG (MP) Act 1976). In addition, anyone driving an uninsured vehicle may be prosecuted (s.143 Road Traffic Act 1988).

### **Cautions**

- 387. A caution may be used as an alternative to a prosecution in appropriate circumstances, where the criteria for prosecution are satisfied but an offence is of a less serious nature. The Council will have regard to Home Office Guidance and other relevant guidance. It is necessary for the offence to be admitted prior acceptance of a caution. If a caution is not accepted the matter will be referred for legal proceedings. It is unlikely that more than one caution will be issued (regardless of the type of offence) and repeat offences will lead to prosecution.

388. A caution may be used:

- a) to deal quickly and simply with less serious offences;
- b) to divert less serious offences away from the Courts;
- c) to reduce the chances of repeat offences.

## **Prosecution**

389. In certain cases the Council will prosecute offenders. In all cases the evidential and public interest test contained within the Code for Crown Prosecutors must be satisfied. The Council will seek to prosecute for a range of offences including overcharging of members of the public, acting as and/or using unlicensed drivers and vehicles, driving without insurance or invalidating insurance (e.g. illegal plying for hire). Breaches of the licensing legislation may also lead to prosecution. Furthermore the Council's uniformed warden service is empowered to issue fixed penalties in respect of stationary vehicles with their engines idling to prevent unnecessary exhaust emissions.

390. In addition to prosecution, the licensee may be referred to the Licensing Committee for consideration for further disciplinary action (e.g. warning, suspension, revocation, refusal to renew).

## Town Police Clauses Act 1847 (The 1847 Act)

391. The following offences under the 1847 Act relate to hackney carriages.

Section	Offence	Maximum Fine
40	Giving false information on an application for a HC proprietor licence	Level 1
44	Failure of HC proprietor to notify of change of address	Level 1
45	Plying for hire without HC proprietor licence	Level 4
47	Driving a HC without HC driver's licence	Level 3
47	Lending or parting with HC driver licence	Level 3
47	HC proprietor employing unlicensed driver	Level 3
48	Failure of HC proprietor to hold HC driver licence of person employed/permitted to drive his/her HC	Level 1
48	Failure of HC proprietor to produce HC driver licence of person employed/permitted to drive his/her HC	Level 1
52	Failure to display HC plate	Level 1
53	Refusal to take a fare	Level 2
54	Charging more than the agreed fare	Level 1
55	Obtaining more than the legal fare	Level 3 +1 month HMP
56	Travelling less than the lawful distance for an agreed fare	Level 1
57	Failing to wait after a deposit to wait has been paid	Level 1
58	Charging more than the legal fare	Level 3
59	Carrying person other than the hirer without consent	Level 1
60	Driving HC without proprietor's consent	Level 1
60	Allowing another to drive HC without proprietor's consent	Level 1
61	Drunken driving of HC	Level 1
61	Wanton or furious driving or wilful misconduct leading to injury or danger	Level 1
62	Driver leaving HC unattended	Level 1
64	HC driver obstructing other HC's	Level 1



## Local Government (Miscellaneous Provisions) Act 1976 (The 1976 Act)

392. Offences under 1976 Act relate to hackney carriages and private hire vehicles, proprietors, drivers and operators.

### (a) The 1976 Act - Hackney Carriage Provisions

Section	Offence	Maximum Fine
49	Failure of proprietor to notify Council of transfer of HC proprietor licence	Level 3
50(1)	Failure of proprietor to present HC for inspection as requested	Level 3
50(2)	Failure of proprietor to inform Council where HC is stored if requested	Level 3
50(3)	Failure of proprietor to report an accident to the Council	Level 3
50(4)	Failure of proprietor to produce HC proprietors licence and insurance certificate	Level 3
53(3)	Failure of driver to produce HC driver licence	Level 3
57	Making false statement or omitting information to obtain a HC proprietor licence	Level 3
58(2)	Failure of proprietor to return plate after notice given after expiry, revocation or suspension of HC proprietor licence	Level 3
61(2)	Failure to surrender drivers licence after suspension, revocation or refusal to renew	Level 3
64	Cause or permit any vehicle other than HC to wait on a HC stand	Level 3
66	Charging more than metered fare for a journey ending outside the district, without prior agreement	Level 3
67	Charging more than metered fare when HC used as PH vehicle	Level 3
69	Unnecessarily prolonging a journey	Level 3
71	Interfering with a taximeter	Level 3
73(1)(a)	Obstruction of authorised officer or constable	Level 3
73(1)(b)	Failure to comply with requirement of authorised officer or constable	Level 3
73(1)(c)	Failure to give information or assistance to authorised officer or constable	Level 3

(b) **The 1976 Act - Private Hire Provisions**

<b>Section</b>	<b>Offence</b>	<b>Maximum Fine</b>
46(1)(a)	Proprietor using or permitting use of an unlicensed PH vehicle	Level 3
46(1)(b)	Driving a PH vehicle without a PH driver licence	Level 3
46(1)(c)	Proprietor of PH vehicle using an unlicensed driver	Level 3
46(1)(d)	Operating a PH vehicle without a PH operator licence	Level 3
46(1)(e)	Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle	Level 3
46(1)(e)	Operating a vehicle as a PH vehicle when the driver is not licensed as a PH driver	Level 3
48(6)	Failure to display PH vehicle plate when using or permitting use of PH vehicle	Level 3
49	Failure to notify the Council of transfer of PH vehicle licence	Level 3
50(1)	Failure of proprietor to present PH vehicle for inspection and testing as required	Level 3
50(2)	Failure of proprietor to inform Council where PH vehicle is stored if requested	Level 3
50(3)	Failure of proprietor to report an accident to the Council	Level 3
50(4)	Failure of proprietor to produce PH vehicle licence and insurance certificate	Level 3
53(3)	Failure of driver to produce PH driver's licence	Level 3
54(2)	Failure to wear PH driver's badge	Level 3
56(2)	Failure of PH operator to keep records of bookings	Level 3
56(3)	Failure by PH operator to keep records of PH vehicles operated by him	Level 3
56(4)	Failure to produce PH operator's licence on request	Level 3
57	Making false statement or omitting information to obtain PH driver's or operator's licence	Level 3
58(2)	Failure to return plate after notice given after expiry, revocation or suspension of PH vehicle licence	Level 3 (+ £10 daily fine)
61(2)	Failure to surrender driver licence after suspension, revocation or refusal to renew	Level 3
67	Charging more than the metered fare when HC used as PH vehicle	Level 3
69	Unnecessarily prolonging a journey	Level 3
71	Interfering with a taximeter	Level 3
73(1)(a)	Obstruction of authorised officer or constable	Level 3
73(1)(b)	Failure to comply with requirement of authorised officer or constable	Level 3
73(1)(c)	Failure to give information or assistance to authorised officer or constable	Level 3

## Transport Act 1980 – Private Hire Provisions

393	Section	Offence	Maximum Penalty
	64(2)(a)	Driving a PH vehicle with a roof sign which contravenes s. 64(1)	Level 3
	64(2)(b)	Causing or permitting a PH vehicle to be driven with a roof sign which contravenes s.64(1)	Level 3

## Road Traffic Act 1988 S.143 – Using a Vehicle without Insurance

394. Drivers may be prosecuted by the Police or the Council in relation to driving without insurance. As well as a financial penalty the DVLA driver licence must be endorsed with between 6-8 penalty points and the Court has discretion to disqualify the driver. The Court will consider any aggravating and mitigating factors when sentencing. If the vehicle concerned is a hackney carriage or private hire vehicle this will be an aggravating (i.e. more serious) factor.

## Criminal Justice and Public Order Act 1994 S.167 – Touting for Hire

395. It is an offence in a public place, to solicit persons to hire vehicles to carry them as passengers. The penalty is a level 4 fine.

## Health Act 2006, S.7 – Smoking in vehicle and S.8 – Failing to Prevent Smoking in a Vehicle

396. The maximum penalty for the above offences is a level 1 fine.

## Hackney Carriage Byelaws

397. Prosecutions may be brought against hackney carriage proprietors and drivers for breach of the Council's byelaws. The maximum penalty is a level 2 fine.

## 398. Equality Act 2010

Sec.	Offence	Max Penalty
<b>168</b>	<b>Assistance dogs in taxis</b> (1) This section imposes duties on the driver of a taxi which has been hired— (a) by or for a disabled person who is accompanied by an assistance dog, or (b) by another person who wishes to be accompanied by a disabled person with an assistance dog. (2) The driver must— (a) carry the disabled person's dog and allow it to remain with that person; (b) not make any additional charge for doing so.	<b>Level 3</b>
<b>170</b>	<b>Assistance dogs in private hire vehicles</b> (1) The operator of a private hire vehicle commits an offence by failing or refusing to accept a booking for the vehicle— (a) if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and (b) the reason for the failure or refusal is that the disabled person will be accompanied by an assistance dog. (2) The operator commits an offence by making an additional charge (4) The driver of a private hire vehicle commits an offence by failing or refusing to carry out a booking accepted by the operator— (a) if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and (b) the reason for the failure or refusal is that the disabled person is accompanied by an assistance dog.	<b>Level 3</b> <b>Level 3</b>

## HACKNEY CARRIAGE STANDS

• <b>Appointed Stands</b>	paragraph(s)	399 – 401
• <b>Creation of a Stand</b>	paragraph(s)	402 – 404
• <b>Waiting on Stands</b>	paragraph(s)	405 – 408
• <b>Hackney Carriage Hailing Points</b>	paragraph(s)	409 - 410
• <b>Horse Drawn Carriage</b>	Paragraph(s)	441 - 412

### Appointed Stands

399. The purpose of hackney carriage stands (also known as a hackney carriage rank or a taxi rank) is to provide the public with a set location where they can hire a licensed hackney carriage. The stand is the only place where a hackney carriage may ply for hire in a stationary position and should be situated in locations where the public most need hackney carriages, for example adjacent to transport facilities, retail areas and places of employment, entertainment and leisure facilities. Stands should be sited so that passengers can board or alight from the vehicle safely. Stands can be for continual or part-time use.
400. The Council will review the provision of hackney carriage stands in the borough from time to time. In this respect officers will work closely with the Darlington Hackney Carriage Trade.
401. There are currently 12 official hackney carriage stands in the borough providing spaces for a total of 62 vehicles. A list of the stands and their designated locations are attached at **Appendix 19**.

### Creation of a Stand

402. A new hackney carriage stand can be appointed under section 63 of the 1976 Act. This allows new stands to be created on public highways or private land with the appropriate consent of the land owner and can be for continual or part-time use.
403. Prior to a new stand being created or the maximum number of vehicles that can use a stand is varied a notice will be given to the Chief Officer of Police and a public notice published in a local newspaper.
404. New stands will not be sited where they may lead to obstructions.

### Waiting on Stands

405. It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages.
406. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare. Drivers who park on a stand and leave their hackney carriage vehicle unattended commit an offence.
407. When parking on a rank the driver must ensure that the whole of the vehicle is contained within the road markings of the rank. The vehicle must be parked in the direction indicated by the rank signage.
408. The signage for each rank indicates the maximum number of vehicles permitted on the rank. This number must not be exceeded. If the rank is full the driver must proceed to another rank.

### Hackney Carriage Hailing Points

409. Hackney carriage hailing points have been introduced in other parts of the country and are an alternative to a stand either where there is insufficient space for a stand or the location does not justify the creation of a stand. It is a specific point where the public know they will be able to hail a hackney carriage and the theory is that the drivers know where they are and will ensure that they pass them on a regular basis. There is no provision for hackney carriages to wait at hailing points.
410. A request has not been made for the provision of hailing points within the Darlington Borough.

## Horse Drawn Carriages

- 411. Horse drawn carriages can be considered for licensing as a hackney carriage vehicle however there are special requirements for such vehicles, their horses and drivers. **Appendix 19** provides detailed information in respect of the licensing of these vehicles.
- 412. Private Hire vehicles may not be licensed as a horse drawn carriage as Section 80 (1) Local Government (Miscellaneous Provisions) Act 1976 describes a private hire vehicle as “a motor vehicle constructed or adapted to seat fewer than eight passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers”

## COMPLAINTS PROCEDURE

- 413. The Council is proud of its professional private hire and hackney carriage trade and expects them to uphold high standards at all times. However we recognised that there may be occasions when transport users, the general public and other members of the trade may make complaints and as such a complaints procedure will be followed.
- 414. All complaints received will be investigated. Complainants will receive acknowledgement of their complaint within 1 working day advising the name of the Officer assigned to investigate the complaint.
- 415. Complainants may be asked to put their complaint in writing or provide a witness statement if the complaint is such that formal action may result.
- 416. The Council recognises that some complaints can be frivolous or vexatious. These complaints will not be taken further.
- 417. Licensees are expected to assist Officers in their investigations and make themselves available for interview.
- 418. At the end of the investigation all parties concerned will receive written confirmation of the result and action to be taken. If the complainant is not satisfied as to the outcome the Council has a corporate complaints procedure in place to deal with these issues.

1. Section 68 of the Town Police Clauses Act (TPCA) 1847 allows the Council to make Byelaws to regulate the conduct of **hackney carriage drivers** including the wearing of badges and return of left luggage.
2. The Local Government (Miscellaneous Provisions) Act 1976 at Section 51(2) permits the Council to attach conditions to the grant of a **private hire driver** licence as it may consider reasonably necessary.
3. Section 52(2) of the same Act gives the right of appeal to the Magistrates' Court to any person aggrieved by any of the **conditions** attached to the grant of a private hire driver licence. Such appeal must be made within 21 days of receipt of licence. Failure to comply with the Council's conditions may result in a PH Driver licence being suspended or revoked.
4. Parts of the Local Government (Miscellaneous Provisions) Act (LG (MP) Act) 1976 also apply to **hackney carriage drivers**.
5. Failure to comply with any legislation is an offence.

#### **AUTHORISED OFFICERS (S 73 LG (MP) ACT 1976)**

6. It is an offence to obstruct any Authorised Officer or Police Officer. All Licensees must provide any assistance or information (s)he may reasonably require.

#### **CARRIAGE OF ANIMALS (S 37 DISABILITY DISCRIMINATION ACT 1995)**

7. Drivers shall not refuse to carry, free of charge, any guide, hearing or other assistance dog, travelling with a person with disabilities, in their vehicle. These dogs will not be restricted to the rear of the vehicle. If a driver has been granted an exemption from carrying such dogs on medical grounds (s)he must display the notice of exemption on the windscreen or dashboard of the vehicle.

#### **DRIVER BADGES (S 54, LG (MP) ACT 1976 & HACKNEY CARRIAGE DRIVER BYELAWS)**

8. a) **Wearing of Badge**  
Drivers must, at all times, when driving a private hire vehicle, WEAR the badge provided by the Council in a position which is plainly and clearly visible to passengers.
- b) **Return of Badge**  
Drivers must, upon the expiry revocation or suspension of licence return to the Council the driver's badge and the licence issued to the driver by the Council when granting the licence.

#### **EQUAL OPPORTUNITIES**

9. Drivers must at all times treat passengers or any potential passenger with courtesy and respect. Drivers must not discriminate against any person because of their race, colour, creed, gender or disability.

## **TAXIMETERS (SECTION 71 LG (MP) ACT 1976)**

10. Any person who tampers with any seal on any taximeter without lawful excuse or alters any meter with the intent to mislead shall be guilty of an offence.

## **PLYING FOR HIRE (SECTION 45 TPCA 1847)**

11.
  - a) Private hire drivers must NOT pick up passengers who have not pre-booked with a private hire operator. Only Hackney Carriages may pick up un-booked fares.
  - b) Private hire drivers must NOT offer or accept an offer for the immediate hire of a vehicle while it is being used.
  - c) Private hire drivers must NOT “rank up” outside of nightclubs, public houses, in lay-bys, in residential areas or anywhere where they are likely to attract un-booked fares.
  - d) Private hire drivers must NOT park or wait on any Hackney Carriage Rank

## **SEATBELTS – CARRIAGE OF CHILDREN (LEGISLATION - M/V (WEARING OF SEAT BELT REGS 1993)**

12. Drivers must at all times conform to the Motor Vehicle (Wearing of Seat Belt) Regulations, 1993 and any other legislation regarding the carriage of children, use of appropriate restraints/seatbelts for the age and weight of any child and where in the vehicle the child can be carried.

## **TOUTING (SECTION 167 CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994)**

13. Touting means approaching the public and inviting them to be carried for hire in your vehicle. No one must tout on any road or public place. It is a criminal offence for hackney carriage and private hire drivers or any other person to do so.

**DRIVER LEGISLATION TESTS**

1. All new applicants will be required to successfully undertake a driver legislation and knowledge test prior to being considered for a licence. The initial test is currently included in the licence fee; however any repeat tests will have to be paid for by the applicant.

**CRIMINAL RECORD CHECKS**

2. All new applicants will be required to undertake a Disclosure and Barring Service (DBS) enhanced "taxi driver" check, at their own expense as part of the application process. This check will be repeated at 3 yearly intervals while the driver is licensed with the Council. Checks will only be accepted up to 1 month in age.

**DSA TEST**

3. All applicants for Driver licences are required to successfully undertake the DSA taxi test prior to being considered for a licence. This policy has applied retrospectively to all licensed drivers from December 2004.

**MEDICALS**

4. Medicals to Group II standard are required for every driver on first application and then every 5 years from the age of 45 years. After the age of 65 years they are required annually. More regular medicals may be required dependent on new and existing medical health. Drivers should report any changes to their medical health to the Licensing Office at the first opportunity following diagnosis of the medical condition or illness. In certain instances, the applicant or driver will be referred to the Licensing Committee.

**TRAINING AND QUALIFICATIONS**

5. The Council does not currently require drivers or new applicants to undertake formal qualifications such as BTEC Intermediate Award and NVQ in passenger Transport. This however may change. Drivers are therefore advised to access driver training where funding is available.
6. The Council will require drivers to undertake some form of disability awareness training. Such training will be mandatory for all drivers of wheelchair accessible vehicles and, if resources are available, will be a requirement for all drivers on a retrospective basis.
7. The Council will require all applicants for driver licences and private hire operator licences to undertake Child Sexual Exploitation Awareness Training. All existing licence holders will be required to produce a certificate confirming that they have undertaken the training prior to the renewal of their licence



**PD1. Animals**

Drivers must not carry any animals in their vehicle other than those belonging to or in the care of your passenger(s). Any animal belonging to or in the care of any passenger should be carried in the rear of the vehicle only (except for guide, hearing or assistance dogs who are not restricted to the rear of the vehicle).

**PD2. Change of Address**

Drivers must notify the Council in writing, of any change of address during the period of the licence within 7 days of such a change taking place.

**PD3. Conduct of Driver****Drivers must always:**

- a) Assist passengers with their luggage. This includes picking it up from the point of booking, removing it from the vehicle at the end of the journey and, if requested, setting it down at the passenger's request.
- b) Be clean and respectable in dress (see driver dress code).
- c) Be polite and behave in a civil and orderly manner.
- d) Take all reasonable steps to ensure the safety of passengers while they are entering, travelling in or leaving the vehicle.
- e) Offer assistance to elderly, infirm or disabled passengers.

**Drivers must not:**

- a) Smoke in the vehicle at any time
- b) Drink or eat in the vehicle at any time while carrying passengers (best practice is for rest periods to be taken away from the vehicle).
- c) Play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle without the consent of the passenger.
- d) Cause or allow the noise emitted by any radio or other previously mentioned equipment in the vehicle to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle (Windows should remain closed if you are engaged in this activity)
- e) Engage in any activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council.

**PD4. Convictions**

The driver shall within seven days of conviction/caution disclose to the Council in writing details of any conviction or *caution* (including motoring offences and fixed penalty tickets) imposed on him during the period of the licence.

**PD5. Driver's Badge**

A driver shall at all times when acting in accordance with the driver's licence granted to him wear such a badge in such position and manner as to be plainly and distinctly visible

**PD6. Deposit of Licence**

Drivers must give their private hire driver licence to the owner of the private hire vehicle which they will be driving. (S)he will keep your licence while they are employed by him/her.

**PD7. Equal Opportunities**

Drivers must at all times treat passengers or any potential passenger with courtesy and respect. Drivers must not discriminate against any person because of their race, colour, creed, gender or disability

**PD8. Fare to be Demanded**

Drivers must not demand a fare greater than previously agreed for with the passenger and the operator. If a taximeter is in use only the fare displayed may be charged

**PD9. Lost Property**

When passengers have been dropped off the driver must check the vehicle for any property accidentally left there. If any is found it must be returned to the passenger or handed into a police station as soon as possible and no later than the end of that shift.

**PD10. Medical Condition**

The Council must be notified, in writing, within 14 days of any deterioration in the driver's medical condition that may affect their ability to drive private hire vehicles

**PD11. Passengers**

Drivers must not

- a) carry more passengers in their vehicle than is permitted by the vehicle licence
- b) carry more than one person in the front seat unless the vehicle is furnished with a bench type front seat 1270 mm or more in length between the doors and provided with seat belts for all front seat passengers. In this case no more than 2 passengers may be carried
- c) without the consent of the hirer, carry any additional person in the vehicle.

**PD12. Prompt Attendance**

Drivers must always pick up passengers on time unless unavoidably delayed.

**PD13. Receipts**

The Driver must, if requested, provide the passenger(s) with a written receipt for the fare paid including the amount of VAT (if applicable) shown separately if so requested. The Driver should provide details of the journey including the date, fare, vehicle, operator and name of driver and sign the receipt

**PD14. Taximeters in PHVs**

**If the private hire vehicle is fitted with a meter the driver:**

- a) Must not cancel or conceal the fare recorded until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless credit is to be given).
- b) Must ensure that when the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter must show no fare at any time.
- c) Must ensure that the meter is sufficiently illuminated when in use and is visible to all passengers.
- d) Must ensure that the meter is only brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey.
- e) Must ensure that the fare charged does not exceed the fare displayed on the meter at the end of the journey.

## 1. Animals

Drivers must not carry any animals in their vehicle other than those belonging to or in the care of your passenger(s). Any animal belonging to or in the care of any passenger should be carried in the rear of the vehicle only (except for guide, hearing or assistance dogs who are not restricted to the rear of the vehicle).

## 2. Change of Address

Hackney Carriage drivers must inform the Council, in writing, within 7 days of any change of address.

## 3 Conduct of Driver

### Drivers must always:

- a) Assist passengers with their luggage. This includes picking it up from the point of booking, removing it from the vehicle at the end of the journey and, if requested, setting it down at the passenger's request.
- b) Be clean and respectable in dress (see driver dress code).
- c) Be polite and behave in a civil and orderly manner (NB this includes not engaging in any activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council).
- d) Take all reasonable steps to ensure the safety of passengers while they are entering, travelling in or leaving the vehicle.
- e) Offer assistance to elderly, infirm or disabled passengers

### Drivers must **not**:

- f) Smoke in the vehicle at any time.
- g) Drink or eat in the vehicle at any time while carrying passengers (best practice is for rest periods to be taken away from the vehicle).
- h) Play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle without the consent of the passenger
- i) Cause or allow the noise emitted by any radio or other previously mentioned equipment in the vehicle to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle. (Windows should remain closed if you are engaged in this activity).

## 4. Convictions

The Drivers shall within seven days of conviction/caution disclose to the Council in writing details of any conviction or caution (including motoring offences and fixed penalty tickets) imposed on him during the period of the licence.

## 5. Driver's Badge

Hackney Carriage drivers shall, at all times when driving a Hackney Carriage while carrying passengers or while plying for hire, wear the driver's badge provided by the Council on the breast of the outer clothing and in such position and manner as to be plainly and distinctly visible.

## 6. Insurance

The proprietor or driver of the Hackney Carriage shall ensure that all times when the Hackney Carriage is available for hire or hired it is insured for public use hire.

## 7. Prompt Attendance

Drivers must always pick up passengers on time unless unavoidably delayed.

## 8. Receipts

The Driver must, if requested, provide passenger(s) with a written receipt for the fare paid including the amount of VAT (if applicable) shown separately if so requested. (This should show details of the journey including the date, fare, vehicle, operator and driver and be signed by the driver).

## 9. Passengers

The driver of a hackney carriage must not:

- a) Carry more passengers in the vehicle than is permitted by the vehicle licence.
- b) Without the consent of the hirer, carry any additional person in the vehicle.
- c) No child aged 10 years or less is permitted to travel in the front seat of a Hackney Carriage unless an infant of two years or less is conveyed in a child safety cot approved for this purpose by the British Standards Institute (or such body which succeeds to and carries out the functions of the aforesaid Institute) securely affixed to the front passenger seat

## 10. Taximeter Fares

The driver of a hackney carriage must:

- a) As soon as the hackney carriage is hired must **always** bring into action the machinery of the taximeter.
- b) Ensure that the meter shows the rate of fare approved by the Council.
- c) Ensure that the fare recorded on the meter is clearly visible to passenger(s).
- d) Never charge more than the fare shown on the meter. The driver may charge less than this rate by agreement with the passenger(s).
- e) If a fare has been pre-arranged must compare it to the metered fare and charge the lesser of the two

## 11. Taxi Ranks

When plying for hire in any street a hackney carriage driver must:

- a) Proceed with reasonable speed to one of the ranks.
- b) On arrival at a rank which is occupied by the maximum permitted number of vehicles to occupy it, proceed to another stand.
- c) On arrival at a rank which is not occupied by the maximum permitted number of vehicles to occupy it, place the vehicle immediately behind the carriage or carriages on the rank, facing in the direction designated by the Byelaw for that rank.
- d) From time to time when the Hackney Carriage in front is driven off or moved forward, move forward so as to fill the place previously occupied by the vehicle in front.
- e) **Never** leave a Hackney Carriage unattended on a rank.

## 12. Horse Drawn Vehicles

The proprietor or driver of a horse drawn Hackney Carriage shall:

- a) While standing or plying for hire, not drive or allow to be driven or harnessed to the carriage any animal in such a condition as to expose passenger or pedestrian to risk of injury.
- b) While standing or plying for hire, cause every part of the harness of the animal or animals to be properly and securely attached to the carriage and under due control.
- c) Not in any street, feed or allow to be fed, an animal harnessed or otherwise attached to such a carriage, except with food contained in the proper bag or other receptacle suspended from the head of such animal or from the centre pole of the carriage or which is held in and delivered with the hand of the person feeding such horse.

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

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

Licence holders shall endeavour to promote the image of the Hackney Carriage and Private Hire Trade by:

- a) Complying with this Code of Good Conduct.
- b) Complying with all the Conditions of their Licence and the Councils Hackney Carriage and Private Hire Licensing Policy
- c) Behaving in a professional manner at all times

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

Licence holders shall:

- a) Maintain their vehicles in a safe and satisfactory condition at all times;
- b) Keep their vehicles clean and suitable for hire to the public at all times;
- c) Attend punctually when undertaking pre-booked hiring;
- d) Assist, where necessary, passengers into and out of vehicles;
- e) Offer passengers reasonable assistance with luggage

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

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

- a) Not sound the vehicle's horn.
- b) Keep the volume of radio/cassette/CD player and VHF/digital radios to a minimum.
- c) Switch off the engine if required to wait.
- d) Take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.
- e) Not deposit any litter.
- f) Not urinate in the street.

At hackney carriage ranks and other places where hackney carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:

- g) Rank in an orderly manner and proceed along the rank in order and promptly.
- h) Remain in the vehicle.

### **4. General**

Drivers shall:

- a) Pay attention to personal hygiene and dress in accordance with the Dress Code.
- b) Be polite, helpful and respectful to passengers.
- c) Drive with care and due consideration for other road users and pedestrians
- d) Obey all Traffic Regulation Orders and directions at all time;
- e) Ensure they do not smell of alcohol or consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle.
- f) Not drive while having used or misused legal drugs which may affect their ability to drive and/or illegal drugs.
- g) Behave in a civil and orderly manner at all times.
- h) Not engage in any dialogue or activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council. This includes inappropriate touching of passengers.
- i) Not smoke or use any alternative device such as an e-cigarette whilst the vehicle is used for the purpose it is licensed for or whilst passengers are carried in the vehicle

**Please Note:**

**ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGMENT**

**THE COUNCIL WILL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE CONSUMED ANY ALCOHOL OR HAVING MISUSED ANY DRUGS PRIOR TO OR WHILST IN CHARGE OF A LICENSED VEHICLE.**

1. The purpose of a driver's dress code is to seek a standard of dress that provides a positive image of the hackney carriage and private hire trade in Darlington to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

#### **Acceptable Standard of Dress**

2. As a minimum standard, males should wear either long legged trousers or knee length shorts and T shirts which have a full body and short sleeves. Females should wear either long legged trousers or knee length shorts or skirt or dress and T shirts which have a full body and short sleeves.

#### **Footwear**

3. Footwear for all drivers shall fit around the heel of the foot.

#### **Unacceptable Standard of Dress**

4. The following are deemed to be unacceptable:
  - a) Clothing that is not kept in a clean condition, free from holes and rips.
  - b) Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
  - c) Sportswear (e.g. football/rugby kits, track suits, beach wear etc.).
  - d) Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
  - e) Drivers not having either the top or bottom half of their bodies suitably clothed.

## RELEVANCE OF CONVICTIONS, CAUTIONS, REPRIMANDS, FIXED PENALTIES, WARNINGS AND COMPLAINTS

1. Darlington Borough Council uses the following guidelines to make fair and consistent decisions when considering applications for driver and operator licences from applicants who have criminal convictions, conditional/unconditional cautions, reprimands, or when dealing with other information revealed during the application process. In doing so they have a clear objective to protect the public at all times.
2. In applying these guidelines, the Council will consider its responsibility with regard to safeguarding the public and, in particular, children and vulnerable adults. The Council must be confident that the applicant is a fit and proper person.
3. The Local Government Association encourages Councils to take a strong stance on indecency offences such as those relating to rape, sexual assault and Child Sexual Exploitation.
4. In considering any applicant with criminal convictions, conditional/unconditional cautions, reprimands, warnings or they have been interviewed under caution and been offered an alternative sanction to prosecution the Council will take into account the number and type of offences etc., any patterns of criminality and apply a totality principle to applicants with such convictions, cautions and reprimands.
5. The issuing and holding of a licence is a privilege not a right and persons who hold a licence are expected to conduct themselves in a manner that does not bring their profession or the Council into disrepute.
6. These guidelines also apply to existing holders of such licences. It should be noted that the Council will consider it extremely serious when existing holders of licences receive criminal convictions, cautions, reprimands or warnings or receive complaints which result in disciplinary action.
7. Existing holders of licences who commit criminal offences or receive complaints about their behaviour which result in disciplinary action may expect the Council to consider revoking their licence.
8. The Council uses the Enhanced Disclosure service from the Disclosure and Barring Service to determine the suitability of applicants for Hackney Carriage and Private Hire Driver Licences.
9. The Council will comply fully with the DBS Code of Practice and the requirements of the Data Protection Act. Disclosure information will be used fairly, stored securely and only be handled by authorised persons. Please see guidance leaflet on "Handling, Storage and Use of Disclosure Information Received from the DBS" for further information.

### General

10. Every application or case will be decided on its own merits. The Council will endeavour to make consistent decisions but is not bound by or obliged to follow previous decisions made by them in relation to the holders of licences.
11. A person with a current conviction, caution, reprimand or final warning need not be permanently barred from obtaining a licence, but there will be an expectation that applicants will be expected to remain free from conviction for up to 5 years, according to the circumstances, before an application is entertained. However any person on the DBS Barred List will be refused a licence.
12. Current DfT Best Practice Guidance 2010 removed references to any recommendation of the period of time which should lapse between certain types of convictions. Where periods free from further convictions is stipulated Members will treat this as a **minimum standard**.

13. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Whilst, the Council may exercise its discretion, the overriding consideration will be the protection of the public. The following examples, (based on the joint Home Office and Department for Transport guidelines 1992), afford a general guide on the action to be taken where convictions, cautions, reprimand or final warnings are admitted.

### Minor Traffic Offences

14. Convictions, cautions, reprimands or final warnings for minor traffic offences will not prevent a person from being considered for a licence. If an applicant has up to six "live" penalty points on their driving licence for such offences then the application may be granted subject to a written warning.
15. If an applicant has 9 or more points on their licence the application will be referred to the Council's Licensing Committee who may decide to refuse the application. At the very least a warning will be given that further offences may result in revocation of the licence and the applicant may be required to attend a Driver Improvement Course. Applicants should note that this Council does not deem speeding to be a minor offence and the receipt of more than 3 penalty points for a speeding offence may be referred to the Council's Licensing Committee.

### Major Traffic Offences

16. Major traffic offences include those on the attached list of offences that have the following codes:

DVLA CODE	DESCRIPTION OF OFFENCE
AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
BA10	Driving whilst disqualified by order of court
BA30	Attempting to drive while disqualified by order of court
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving with alcohol level above the limit
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen or analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
IN14	Causing or permitting the use of a vehicle uninsured against third party risks
UT50	Aggravated taking of a vehicle
TT99	To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified

17. The Council appreciates there is a difference in the level of seriousness of these offences and will consider each on its merits. Although offences of excess speed do not appear in the table above the Council considers such offences to be extremely serious and drivers with such offences may be referred to Committee.



18. If an applicant has a live endorsement in respect of a major traffic offence then the application will be referred to the Licensing Committee and will be refused until at least 3 years after the most recent conviction, caution, reprimand or final warning. In the case of a licensed driver it will ordinarily result in the licence being revoked.
19. Should the Courts decide not to disqualify a driver under the totting up procedures the Council may still consider that the driver is not a fit and proper person and may consider revocation of the private hire and/or hackney carriage driver licence.

### **Alcohol Related Offences**

20. A person who has been disqualified from driving as a result of a drink driving offence must show at least 5 years free from conviction after the restoration of their driving licence before their application will be considered. More than one conviction of this type would usually result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.

### **Drug Offences**

21. An applicant with a conviction, caution, reprimand or final warning for a drug related offence will be required to show a period of at least 5 years free of a conviction, caution, reprimand or final warning before an application is considered, or 7 years after detoxification treatment if the applicant is an addict.
22. If the conviction, caution, reprimand or final warning relates to the possession or manufacture of controlled drugs or substances with the intent to supply then it is unlikely that the application will be granted. In the case of a licensed driver it will ordinarily result in the licence being revoked.
23. More than one conviction, caution, reprimand or final warning for a drug related offence will ordinarily result in an application being refused or a licence revoked.

### **Sexual Offences**

24. Applicants with a conviction, caution, reprimand or final warning for indecent exposure, indecent assault, importuning or any sexual offence, will be refused a licence. In the case of a licensed driver it will ordinarily result in the licence being revoked.

In exceptional circumstances an application may be considered on its merits when the applicant can show a substantial period free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning.

Where a conviction has resulted in a custodial sentence being imposed, an application will ordinarily be refused. This will also apply if a custodial sentence was suspended.

More than one conviction, caution, reprimand or final warning for indecent exposure, indecent assault, importuning or any other sexual offence, will ordinarily result in an application being refused or a licence revoked.

**NB: Any person on the ISA Barred List will be refused a licence.**

### **Violence**

25. Applicants with a conviction, caution, reprimand or final warning for actual bodily harm, grievous bodily harm, wounding, assault, or possession of a dangerous weapon etc. will as a rule be refused a licence. An application may be granted if the applicant can show at least 5 years free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning or 5 years from completion of any custodial sentence imposed, whichever is the latter.

26. More than one conviction caution, reprimand or final warning for violence will ordinarily result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.

The Council deems incidents of domestic violence to be extremely serious because if an individual is prepared to assault an individual in a domestic or home environment then there would be concerns over that person's ability to control their temper when working in an environment dealing with members of the public.

27. More than one conviction caution, reprimand or final warning for any offence involving domestic violence will ordinarily result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.

### **Dishonesty**

28. Applicants with a conviction, caution, reprimand or final warning for an offence involving dishonesty will be refused a licence. An application may however be considered where the applicant can show at least 5 years free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning or 5 years from completion of any custodial sentence imposed, whichever is the later.
29. More than one conviction caution, reprimand or final warning for any offence involving dishonesty will ordinarily result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.

### **Public Order Offences**

30. Applicants with a conviction, caution, reprimand or final warning involving public order offences such as affray, fear or provocation of violence, criminal damage etc. will have their application referred to the Licensing Committee for consideration and will usually be refused a licence. An application may however be considered where the applicant can show at least 3 years free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning or 3 years from completion of any custodial sentence imposed, whichever is the later.
31. More than one conviction caution, reprimand or final warning for any public order offence will ordinarily result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.

**Any conviction, caution, reprimand or final warning which results from an offence committed by any person while working as a Hackney Carriage or Private Hire Proprietor, Driver or Operator is regarded as extremely serious and will ordinarily lead to a licence being revoked or an application to renew the licence being refused.**

### **Cautions**

32. The Council requires applicants to reveal any cautions they may have received. The Council acknowledges that a caution is not a conviction and therefore does not carry as great a weight.

**However the Council notes that an admission of guilt is required before a caution can be administered and that the police must have sufficient evidence to proceed with a prosecution if the offer of a caution is refused.**

### **Fixed Penalties**

33. Fixed penalties are not limited to motoring offences and may be given for a range of offences including shop theft, minor public order offences and offences such as littering, dog fouling etc. Fixed penalties must be declared to the Council in the same way as offences and may be taken into consideration as part of the Council's disciplinary procedures.

## **Licensing Offences**

34. Convictions for offences or any failure to comply with the provisions of the Town Police Clauses Act or the relevant part of the Local Government (Miscellaneous Provisions) Act 1976, or the Council's Byelaws will be viewed seriously by the Council. The following examples afford a general guide to what action the Council may take in relation to existing Hackney Carriage and Private Hire licence holders.

## **Proprietor Offences**

35. Any person convicted, cautioned, reprimanded or given a final warning of an offence relating to a hackney carriage or private hire vehicle of which they are the proprietor may have their licence(s) suspended or revoked.

## **Driver Offences**

36. Any person convicted, cautioned, reprimanded or given a final warning of an offence whilst acting as the driver of a hackney carriage or private hire vehicle may have their driver licence **(s)** revoked.

## **Operator Offences**

37. Any person convicted, cautioned, reprimanded or given a final warning for an offence relating to their operation of private hire vehicles or drivers may have their private hire operator's licence suspended or revoked.

Should the Council choose to take action short of revocation then more than one such conviction, caution, reprimand or final warning will ordinarily lead to the licence being revoked.

## CRIMINAL RECORDS CHECKS FOR FOREIGN NATIONALS

Where an applicant has not lived in the UK (including all foreign nationals, and EEA citizens) for a continuous six year period at the time of the application, an enhanced DBS disclosure in itself will usually be insufficient to satisfy the Council that the applicant is a fit and proper person. This is because the DBS does not routinely provide criminal record information from non UK countries. These applicants will be required to provide a Certificate of Good Conduct or an equivalent document, translated into English by an approved, recognised body, from each country where they have been living.

Foreign Police Checks must be dated no more than three months prior to an applicant leaving their home country. If the document is not in English, it must be accompanied by a certified translation.

Details of how to obtain such a check from the relevant authorities abroad are available online at:

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

If the country concerned is not listed, please contact the relevant embassy or consulate for further details. Contact details can be found online at:

<https://www.gov.uk/government/publications/foreign-embassies-in-the-uk>

As a minimum, all applications will require full name, date of birth, current address and previous addresses in the country of origin.

Applicants who require a Certificate of Good Conduct should contact:-

**Albania:** The Albania Embassy at 2<sup>nd</sup> Floor, 24 Buckingham Gate, London SW1E 6LB (020 7828 8897)

**Austria:** Application forms can be found at <http://www.help.gv.at/documents/strafreg.pdf>

**Australia:** Police checks can be applied for through the Australian Federal Police website, [www.afp.gov.au](http://www.afp.gov.au).

**Belgium:** Belgian Embassy at 103 Eaton Square, London SW1W 9AB. 020 7470 3700

**Bosnia and Herzegovina:** Bosnian Embassy 5-7 Lexham Gardens London W8 5JJ

**Bulgaria:** Bulgarian Embassy in London 186-188 Queen's Gate London SW7 5HL

**Cyprus:** High Commission of the Republic of Cyprus 13 St James's Square London SW1Y 4LB

**Czech Republic:** The Embassy of the Czech Republic in the UK: 26 Kensington Palace Gardens W8 4QY

**Egypt:** Egyptian Consulate No. 2 Lowndes Street London, SW1X 9ET United Kingdom.

**Pakistan:** London High Commission Counsellor (Welfare) Community Welfare Division High Commission for Pakistan 34 Lowndes Square London SW1X 9JN

**Poland:** Embassy of the Republic of Poland in London Consular Section 73 New Cavendish Street London W1W 6LS

**Romania:** Romanian Embassy Arundel House 4 Palace Green London W8 4QD

**ACCIDENTS AND DAMAGE TO VEHICLES (SECTION 50 OF THE LG (MP) ACT 1976)**

1. If a hackney carriage or private hire vehicle is involved in an accident which results in damage which may affect its appearance or the safety of its passengers the proprietor must report this to the Council within 72 hours.

**AUTHORISED OFFICERS (SECTION 73 OF LG(MP)ACT 1976)**

2. It is an offence to obstruct any Authorised Officer or Police Officer. All Licensees must provide any assistance or information (s)he may reasonably require.

**CHANGE OF ADDRESS (SECTION 44 OF THE TPCA 1847)**

3. The Council must be informed, in writing, within 7 days of any change of address.

**CONVICTIONS (SECTION 50 TPCA 1847)**

4. A second conviction against a driver or proprietor for any hackney carriage or byelaws offence is grounds for the Council to suspend or revoke a licence. If a driver or proprietor is convicted of any criminal or motoring offence (including fixed penalties) (s)he must notify the Council, in writing, within 7 days.

**COPY OF LICENCE (SECTIONS 46, 48 AND 49 TPCA 1847)**

5. The proprietor must keep the hackney carriage driver licences of all drivers employed by them in their possession. When a driver leaves this employment the proprietor must return the licence to him/her. Any driver of a Hackney Carriage must be licensed even if the vehicle is not being used for public hire. Private hire operators must keep the private hire driver licences of all drivers operated by them in their possession. When a driver is no longer operated by the Private hire operator the licence should be returned to him/her. Any driver of a private hire vehicle must be licensed even when the vehicle is not being used for private hire.

**INSURANCE (SECTION 50 LG(MP)ACT 1976)**

6. Proprietors of hackney carriages and/or private hire vehicles must produce a certificate of insurance or cover note when asked by an Authorised Officer.

**LICENCE PLATES (BYELAWS AND SECTION 58 LG (MP)ACT 1976)**

7. The Council's identification plate(s) must not be defaced or displayed in such a way that they are concealed from public view. If the Council suspends or revokes a hackney carriage licence or the licence expires and is not renewed the proprietor will be asked to return the identification plate(s) within 7 days.

**METER/TABLE OF FARES (BYELAW)**

8. Hackney Carriages must be fitted with an accurate meter capable of showing that the vehicle is or is not hired, registering the charge if hired and positioned in clear view of the passengers.
  - a) the meter must be linked to a sign bearing the word TAXI which shall be illuminated where the meter is not in use and cease to be illuminated when hiring has begun.
  - b) a notice showing the Tariff of fares set by the Council must be displayed inside the vehicle in a position where any passengers can easily read it.

**TRANSFER OF OWNERSHIP OF LICENSED VEHICLE (SECTION 49 LG(MP)ACT 1976)**

9. The Council must be informed, in writing, of the transfer of ownership of a licensed hackney carriage or private hire vehicle within in 14 days of this change. On the transfer of a licensed vehicle to a new owner the new owner must complete all documentation required by the Council and produce evidence of insurance. Until the relevant documentation is accepted by the Council, the vehicle licence will be suspended.

**AGE OF VEHICLE**

1. Darlington Borough Council places a limit on the age of vehicles that may be licensed. Licences will only be issued to vehicles which are less than 3 years of age when first presented for licensing (or less than 5 years in respect of purpose built wheelchair accessible vehicles). The age of the vehicle will be determined by reference to its date of first registration.
2. The licence of any vehicle will terminate at the end of the licence period during which the vehicle reaches the age of 6 years (or 10 years in respect of purpose built wheelchair accessible vehicles).
3. If a vehicle is determined to be in exceptional condition an extended licence may be granted (subject to the vehicle passing the relevant emission tests). A definition of “exceptional condition” may be obtained from the Licensing Office.

NB This policy does not apply to limousines and vintage cars.

**DOCUMENTS**

4. A vehicle Licence will only be issued where the vehicle has evidence of valid:
  - i) Road Fund Tax.
  - ii) Vehicle insurance certificate.
  - iii) Public Liability insurance certificate.
  - iv) Employer liability insurance<sup>13</sup> - where you employ or use someone else to drive your private hire vehicle (NB this will apply unless there is evidence of a formal leasing arrangement).
  - v) Pass Certificate issued by Council's in house testing station.
  - vi) MOT certificate<sup>14</sup>
  - vii) V5 vehicle registration document.<sup>15 16</sup>
  - vii) Swivel Seat base fitting certificate where required.

**NB All documentation produced must be an original document**

5. Before or on the date of expiry, each certificate shall be produced together with the relevant renewal certificate to an Authorised Officer.

**Emission Tests**

6. From September 2015 Euro VI becomes mandatory. In subsequent years the updated Euro standards shall apply. Purpose built wheelchair accessible vehicles and “classic” vehicles over 12 years of age shall be exempt from this requirement but this exemption shall be kept under review.

**Engine/Chassis Numbers**

7. The Chassis/VIN plate and engine numbers must match the numbers recorded with the DVLA. Vehicle applications cannot be accepted without a copy of the vehicle registration document or, in the case of a new vehicle purchase, sales documentation indicating the engine and chassis numbers. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police who will undertake checks to ensure the vehicle is not stolen.

<sup>13</sup> **Employer liability insurance shall not be required if the vehicle is to be driven by persons named on the licence as joint proprietors. Such persons will have a material, beneficial and/or controlling interest in the vehicle and will be required to provide written evidence of this**

<sup>14</sup> **An MOT certificate is required for a Hackney Carriage after 1 year. An MOT certificate is required for a Private Hire when it is 3 years of age**

<sup>15</sup> **In the case of a new vehicle, the sales invoice which must show engine and chassis numbers, shall be produced at the time of application. A temporary vehicle licence and plate will be issued until such time as the proprietor can provide evidence that s/he is the registered keeper. The registration document must in all cases be produced within 6 weeks of licence issue**

<sup>16</sup> **The DVLA intends to abolish the V5 (logbook) in 2015. Once a time frame has been provided for when this will happen, the Council will seek an alternative method to access details of the current keeper and vehicle details**

## Surrender and Grant of Licences

8. Vehicle licences are granted to vehicles, not to people. This means that a vehicle licence CANNOT be transferred from one vehicle to another. If a proprietor wishes to change the vehicle that is licensed the following procedures must be followed:
  - a) (S)he must complete an application form for the "new" vehicle.
  - b) (S)he must pay the stated fee for a 12 month period.
  - c) (S)he must surrender the original licence.
  - d) The new vehicle must be presented for test and subsequently pass.
  - e) (S)he must produce evidence of insurance and all other required documentation.
9. Fees paid in relation to hackney carriage and private hire vehicle licences will be subject to a partial credit on the unexpired portion of the licence should the proprietor choose to surrender their licence during the period of the licence. The amount of credit shall be determined by the Council and an administration fee will also be levied. Credit will only be allowed where:-
  - a) The vehicle licence is surrendered correctly
  - b) A request for credit has been made in writing
  - c) The plates and licence have been surrendered
  - d) The credit is used within the current financial year.

The credit is to be used **only** to offset the cost of a new vehicle licence

The total credit will be calculated as the licence fee minus the current administration fee, divided by 12 months multiplied by the **whole** months remaining on the licence.

Once surrendered the vehicle will not again be licensed by the Council unless it is under 3 years of age at the time the next application is made (or less than 5 years in respect of purpose built wheelchair accessible vehicles).

No cash alternative shall be offered at any time

## Taximeters

10. All vehicles fitted with a taximeter must comply with the Measuring Instruments (Taximeters) Regulations 2006 and must be of the calendar control type which is locked and sealed by an approved manufacturer/suppliers and/or installer. The calendar control type shall apply to all new vehicles. Current licensed vehicles will be required to comply by 01 April 2012.

## Use of CCTV

11. If CCTV is installed the proprietor of any vehicle with CCTV must notify the Council and display a sign approved by the Council advising passengers that a CCTV system is in operation in the vehicle.
12. Where CCTV is in place it must be kept in working order when passengers are being carried. The CCTV system should be maintained to the manufacturer's standards, recordings should be retained for 28 days and recordings must be available for viewing by a Police Officer or an authorised officer of the Council on request.

**PV1. Advertisements**

Private hire vehicles must not display signs using the words "TAXI", "CAB" OR "FOR HIRE". No other signs, notices, advertisements or any other markings may be displayed on or in the vehicle without the prior written permission of the Council.

**PV2 Advertising on Private Hire Vehicles**

Any advertisement upon a Private Hire Vehicle requires the prior written approval of the Council. Approved advertisements may be placed on the rear quarter panel only and shall not extend to the boot or rear doors of the vehicle. Adverts shall be of a stick-on plastic film type material (magnetic panels will not be allowed). The following types of advertisement will be excluded

- a) Any advertisement that it is felt likely to give rise to public offence
- b) Any advertising of gambling, alcohol, tobacco or e cigarettes or a "prohibited practice" as described by the Consumer Protection from Unfair Trading Regulations 2008
- c) Illuminated and/or fluorescent advertisements
- d) Advertisements on or above roof level

Any approved advertisement that is later found to give rise to justifiable public offence. This shall immediately be removed upon the instruction of an authorised officer.

No other signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices shall be displayed in, on, or from the vehicle except as may be required by any statutory provision or required or permitted by these conditions

**PV3 Appearance of Vehicle**

Private Hire Vehicles must NOT be red in colour. The vehicle must be approved by the Council and shall:

- a) Have at least four doors that can be opened from both inside and outside the vehicle.
- b) Be right-hand drive.
- c) Have an engine capacity of not less than 75 bhp.<sup>17</sup>
- d) Have minimum seating capacity for at least four adult passengers and each seat shall not be less than 400 mm or 16 inches wide.
- e) Luggage must be properly secured in a vehicle which does not have a boot.
- f) Be wind and watertight.
- g) Have windows that can open on both sides of the vehicle.
- h) Have seats properly cushioned and covered
- i) Have a floor properly covered with carpet or other suitable covering.
- j) Have an adequate internal light to enable passengers to enter and leave the vehicle safely
- k) Have a spare wheel to fit the vehicle and equipment to change a wheel on the vehicle with that wheel e.g. a jack and wheel brace. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:
  - i) The carriage of passengers is not permitted whilst such a tyre is fitted
  - ii) The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.
  - iii) The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.

iv) Due to the speed restriction and the fact that the tyre compound is generally softer (to

<sup>17</sup> BHP The definition of brake horsepower means an engine's actual horsepower which is measured by a dynamometer using a brake attached to the engine's driveshaft. A vehicles BHP can be found on the V5 logbook at P2 = Max. net power (kW)



simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.

v) The use of pressurised tyre sealants will not be permitted in any circumstances

In addition tyres on the same axle must be of the same nominal size and aspect ratio

- l) Be properly fitted with seat belts of approved design for every passenger the vehicle is licensed to carry.
- m) Be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the *normal zone of vision* ie the front windscreen 75 per cent light transmittance and the front door windows 70 per cent light transmittance. In addition the remaining glass within the vehicle shall have a minimum light transmittance of not less than 70 per cent. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass (Policy).
- n) Not be a convertible.
- o) Not be fitted with a roof sign
- p) Not be fitted with a roof rack.
- q) Not draw a trailer.

#### **PV4 Alteration of Vehicle**

The proprietor must not change the design, condition or appearance of the vehicle without first obtaining the written approval of the Council.

#### **PV5 Number of Passengers to be carried**

A proprietor or driver of a Private Hire Vehicle shall not convey or permit to be conveyed in the vehicle, any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage

#### **PV6 Change of Address**

The proprietor shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place.

#### **PV7 Change of Engine**

The proprietor must inform the Council, in writing, within two working days of any change of the engine in the vehicle

#### **PV8 Change of Private Hire Operator**

This vehicle may only be operated under the provisions of one Private Hire Operators Licence at any moment in time. The proprietor must notify the Council of any change in Private Hire Operator, in writing, using the Council's approved forms within two working days. The name of the "new" operator shall then be displayed on the outside of the rear doors of the vehicle.

#### **PV9 Cleanliness**

The proprietor must ensure that the private hire vehicle is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

#### **PV10 Convictions**

The proprietor shall within seven days disclose to the Council in writing details of any criminal or motoring convictions, fixed penalties and/or caution imposed on him or, if the proprietor is a Company or Partnership, on any of the Directors or Partners during the period of the licence.

#### **PV11 Deposit of Driver licence**

If the Proprietor permits or employs any other person to drive the vehicle as a private hire vehicle, he shall before that person commences to drive the vehicle cause the driver to

deliver to him his private hire driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his. Any person driving a private hire vehicle must be licensed, even if the vehicle is not being used for private hire purposes (also Section 46 (b) and (c) of LG (MP) Act 1976.

#### **PV12 Letting/Leasing of vehicles**

The proprietor shall not let or hire the vehicle identified in this licence to any other person, other than a fare paying passenger, without first notifying the Council in writing. NOTE: the proprietor will still be jointly responsible for the vehicle should a leasing arrangement be entered into.

#### **PV13 Licence Plates**

- a) The rear identification plate, supplied by the Council, shall be securely fixed to the rear of the vehicle; in a conspicuous position approved by an authorised officer of the Council, using bolts or screws, or other method with written approval of the Council, in such a manner as to be easily removable by an authorised officer or constable.
- b) The front identification plate shall be securely fixed to the front of the vehicle in a conspicuous position approved by an authorised officer of the Council, using bolts or screws, or other method with written approval of the Council, in such a manner as to be easily removable by an authorised officer or constable.

#### **PV14 Loss/Theft of Plate or licence**

The proprietor must report the loss/theft of licence or identification plate(s) to the Licensing Office as soon as the loss becomes known and in any case, within 2 working days. A lost property/crime number must be obtained from the Police and details of this given to the Council.

#### **PV14 Meter/Table of Fares**

All vehicles fitted with a taximeter must comply with the Measuring Instruments (Taximeters) Regulations 2006 and must be of the calendar control type which is locked and sealed by an approved manufacturer/suppliers and/or installer. The meter must:

- a Be installed into the vehicle in a suitable and secure manner at all times
- b Be accurate, be capable of showing that the vehicle is or is not hired, register the charge if hired and be positioned in clear view of the passengers
- c Be sufficiently illuminated when in use and visible to all passengers.
- d Only be brought into action and the fare or charge must only commence from the point at which at which the hirer starts his/her journey.
- e The fare charged must not exceed the fare displayed on the meter at the end of the journey.
- f) When the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter must show no fare at any time.
- g A notice showing the Tariff of fares must be displayed inside the vehicle in a position where any passengers can easily read it.

No one must tamper with any seal on the meter without lawful excuse or alter any meter with the intent to mislead. Legislation - Section 71 LG (MP) Act 1976.

#### **PV15 Safety Equipment**

The vehicle must always carry in a conveniently and readily accessible position:

- a) A suitable and efficient multipurpose dry powder fire extinguisher or FFF aqueous foam fire extinguisher should be secured in the boot of the vehicle as recommended by the Fire Authority. (Where the extinguisher is to be used in an eight-passenger seat vehicle, which does not have a boot it is recommended that a FFF fire

extinguisher is used. If a dry powder extinguisher is activated in a vehicle the powder may cause loss of vision).

- b) The Private Hire Proprietors licence number shall be painted upon the extinguisher, using indelible black ink, in letters at least 10 mm high.
- c) A first aid box, suitable for passenger carrying vehicles, must be available in the vehicle for use by a suitably trained person to provide emergency aid at an incident, (there is no expectation that a licensed driver without first aid training would do this). The first aid kit should be in a suitable airtight container marked with a white cross on a green background. The container must be clearly marked in indelible black ink with the vehicle licence number and must contain the following:

1 first aid guidance leaflet	2 sterile eye pads
1 sterile wound dressing (7.5cm x 4.5cm)	10 antiseptic wipes (alcohol free)
24 assorted adhesive dressings	2 triangular bandages non-woven
2 pairs disposable gloves	12 safety pins
3 sterile ambulance dressings	1 pair rust free blunt ended scissors

## PHV16

### Signs and Notices

No illuminated or fluorescent sign or advertisement shall be displayed on the inside or outside the vehicle. No sign or advertisement shall be placed on, or above the roof level.

For the purpose of identification of **8 passenger seat vehicles** as licensed Private Hire vehicles the proprietor may:

- a) With the written approval of the Council fix to the top inside corner of the passenger side front windscreen a self adhesive notice no larger than 100mm high and 460 mm wide. The notice shall have a white background and include only the name of the operator of the business in black letters of a maximum size 60 mm in height and also the words "PRIVATE HIRE VEHICLE" or "PRIVATE HIRE ONLY " in black letters of a minimum 25 mm in height;
- b) With the written approval of the Council notices may be displayed upon the external bodywork of 8 seated minibuses giving the trade name and telephone number of the operator on the front, rear and sides of the vehicle, with the following specification:
  - all letters and numbers shall be, all black or all white in colour and no greater than 75 mm high and painted directly upon the vehicle, or printed on self adhesive plastic film;
  - the area of display for the words and number must be limited in size;
  - front and rear - 630 mm wide x 75mm high;
  - sides - 2000 mm x 300 mm;
  - each separate notice shall include the words "PRIVATE HIRE ONLY" in a prominent position in capital letters 25 mm high

The design for each of these notices (a) and (b) above must not be used until a sample has been submitted to the Council and approved in writing.

For the purpose of identification of a **Saloon Private Hire Vehicle** the proprietor:

- a) Shall fix to both rear doors a notice that has the words "PRIVATE HIRE ONLY" in capital letters 25 mm high. The letters shall be coloured black or white. The background colour of the notice shall contrast with both the lettering printed upon it and the vehicle colour. This notice shall be a maximum size 630 mm x 300 mm and be designed to include the name of the operator and telephone number.
- b) May fix to the top inside corner of the passenger side front windscreen of the vehicle a notice no larger than 100mm high and 460 mm wide. The notice shall have a white background and only include the name of the operator of the business in black letters of a maximum size 60 mm in height and the words "PRIVATE HIRE

ONLY” or “PRIVATE HIRE VEHICLE” in black capital letters minimum size 25 mm in height.

Note: The design for each of these notices (a) and (b) above must not be used until a sample has been submitted to the Council and approved in writing

**NB Magnetic fixing of any signage is not permitted**

**PV17**

**Sliding Doors**

Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in motion and carrying passengers. The opening and closing mechanism shall not be altered so as to prevent the doors from locking into the open position

**PV19**

**Swivel Seats**

Where fitted as a passenger seat, certificates of fitting from an authorised fitter must be obtained and produced to the Council before a vehicle can be tested and/or licensed.

**PV20**

**Wheelchair Accessible Vehicles (WAVs)**

Where a vehicle is built or adapted to carry wheelchairs which permit the wheelchair user to remain in their wheelchair throughout the journey, the proprietor and/or driver shall ensure that:-

- c) the wheelchair is positioned in the vehicle so as to permit the passenger to face forwards or rearwards, and
- d) the wheelchair is secured using the correct restraint system which is permanently secured to the vehicle, and
- e) the passenger is secured by an appropriate 3 point seat belt which is permanently secured to the vehicle and not by the wheelchair's lap belt
- f) Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.

Any wheelchair ramps, wheelchair securing straps, wheelchair seatbelt extensions and any other equipment necessary for the safe transportation of wheelchair users must be kept in the vehicle at all times. Such equipment must be of the correct type for the vehicle in which it is being carried and must at all times be in a safe, serviceable and clean condition. Any such equipment must be permanently marked with the registration number of the vehicle in which it is carried

## ADDITIONAL POLICY AND STANDARD CONDITIONS FOR LIMOUSINES, NOVELTY VEHICLES AND EXECUTIVE HIRE

These conditions are IN ADDITION to the standard Private Hire Vehicle conditions except where stated.

### INTERPRETATION

1. For the purpose of licensing by the Council a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres (120 inches) to extend the length of the vehicle. The vehicle shall be capable of carrying up to (but not exceeding) eight seated passengers. Each passenger seating area will be at least 400 millimetres wide.
2. The nature of limousines is such that it is unlikely they will comply with the Council's age policy and will therefore be deemed to be exempt from the policy.
3. Consideration will be given to the licensing of "novelty" vehicles e.g. fire engines on an individual basis.
4. Applications for exemptions from standard conditions will be considered in respect of executive, chauffeur driven vehicles.

### POLICY

#### Documentation

5. The following documentation in original form or certified copies (not photocopies) shall be produced prior to licensing:
  - a) Completed importation documentation – Single Vehicle Approval (SVA).
  - b) A Qualified Vehicle Modifier certificate – (QVM). This is issued by the Coach Builder.
  - c) DVLA registration document (V5).
  - d) Insurance documents covering Hire and Reward, Public Liability insurance and, where drivers other than the proprietor are used, Employer Liability insurance.
  - e) Vehicle test certificate (inspection carried out and certificate issued by the Council's in-house testing station)
 

**NB** The compliance inspection is carried out at **six** monthly intervals.
  - f) Vehicles converted to run on LPG must produce an installation certificate from a LPGA approved UK vehicle conversion company.
  - g) Documentation to show the overall weight of the vehicle (as displayed on the vehicle)

## Conditions for Limousines, Novelty Vehicles

### LN1 Appearance of Vehicle

**(NB this replaces condition 3 of PH Vehicles)**

The proprietor shall ensure that the limousine is of a type approved by the Council.

- a) The maximum length of the vehicle "stretch" shall not exceed 120 inches (3048 millimetres).
- b) The vehicle should be equipped with a minimum of four road wheels and one full sized spare wheel. The tyres shall be of an approved rating as specified by the manufacturer i.e. 235/75R 15 108S (BF Goodrich Extra Load or equivalent). Vehicles produced since 1998 should be fitted with 225/70R 16 107T (Reinforced).

In addition tyres on the same axle must be of the same nominal size and aspect ratio

- c) The front windscreen shall allow 75% light transmittance and the front driver and passenger windows shall allow 70% light transmittance. **(Construction 7 Use Regulations 1986).**
- d) No self-adhesive material (tinted or clear) shall be affixed to any part of the glass without the prior written approval of the Council.
- e) The interior of the vehicle must be kept wind and watertight.
- f) The seats in the passenger compartment must be kept properly cushioned and covered.
- g) The floor in the passenger compartment must be provided with a proper carpet, mat or other suitable covering
- h) There must be adequate internal light to enable passengers to enter and leave the vehicle safely.
- i) The internal fittings and furniture of the limousine must be kept in a clean, well-maintained condition and in every way fit and safe for public use.
- j) Facilities must be provided for the conveyance of luggage safely and protected from inclement weather.
- k) The vehicle must have at least two doors for use of persons conveyed in limousine and a separate means of ingress and egress for the driver.
- l) The exterior of the limousine must be kept in a clean condition especially during inclement weather.
- m) Facilities must be provided to ensure that any person travelling in the limousine can communicate with the driver.

### LN2 Exemption Notice (also Section 75(3) LG(MP)Act 1976)

The Council will issue a written notice that exempts the vehicle from having to display identification plate(s). This notice must be carried in the vehicle at all times and be available for inspection on request by an Authorised officer of the Council or a Police Officer.

### LN3 Licence Plates NB Replaces (a) to (c) of Condition 11 for PH Vehicles

- a) The proprietor of the limousine shall ensure the identification plate(s) is maintained and kept in such condition so that the information contained on the identification plate is clearly visible at all times.
- b) The identification plate shall remain the property of the Council at all time and shall be carried in the limousine so as to be easily removed or inspected by an Authorised Officer of the Council or Police Constable.
- c) The vehicle will display the licence identification card issued by the Council in the windscreen of the vehicle, where it can be easily seen by persons outside of the vehicle.

#### **LN4 Passengers**

- a) The limousine shall not carry a greater number of passengers than the number prescribed in the licence.

**(N.B. A babe in arms is classed as a passenger whatever their age).**

- b) The vehicle shall not carry less than two passengers at any one time
- c) Where the passengers in the vehicle consist of persons under the age of 18 years they must be accompanied by a responsible adult, other than the driver, who is over the age of 18 years and is not connected to the driver.
- d) All passengers must remain seated at all times when the vehicle is in motion.
- e) Passengers will not be carried in the front of the vehicle.
- f) In accordance with Construction and Use Regulations, where seat belts are fitted they must be used by all passengers

#### **LN5 Safety Equipment NB Replaces Part (a) of Condition 14 for PH Vehicles**

The proprietor of the private hire vehicle shall provide and maintain to the satisfaction of the Authorised Officer an efficient fire extinguisher containing BCF (Bromochloro Difluoromethane), which shall be securely fixed to the vehicle and within easy reach of the driver at all times.

The extinguisher shall be manufactured to British Standards and shall show the B.S. number. The vehicle licence number shall be painted upon the extinguisher, using indelible black ink, in letters at least 10 mm high

#### **LN6 Uniform**

The proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or 'business type' suit when the vehicle is hired.

#### **LN7 Material Change**

The Proprietor shall notify the Council immediately in writing if there is any material change in the nature of the use of the vehicle during the period of exemption.

#### **LN8 Exemption from Window Tint**

The Proprietor of any executive hire vehicle wishing to take advantage of an exemption limiting the window tint to the front driver and passenger windows only must not be engaged in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years).

**E1 Advertisements**

No sign or advertisement of any description shall be displayed in or on the vehicle at any time whilst it is being used in accordance with the certificate of exemption

**E2 Alteration of Vehicle**

The proprietor must not change the design, condition or appearance of the vehicle without first obtaining the written approval of the Council.

**E3 Appearance of Vehicle**

The vehicle must NOT be red in colour, must be approved by the Council and shall:

- a) Have at least four doors that can be opened from both inside and outside the vehicle.
- b) Be right-hand drive
- c) Have an engine capacity of not less than 1800cc
- d) Have a minimum seating capacity for at least four adult passengers and each seat shall not be less than 400 mm or 16 inches wide.
- e) Luggage must be properly secured in a vehicle which does not have a boot.
- f) Be wind and watertight.
- g) Have windows that can open on both sides of the vehicle.
- h) Have seats properly cushioned and covered.
- i) Have a floor properly covered with carpet or other suitable covering
- j) Have an adequate internal light to enable passengers to enter and leave the vehicle safely.
- k) Have a spare wheel to fit the vehicle and equipment to change a wheel on the vehicle with that wheel e.g. a jack and wheel brace. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:
  - i) The carriage of passengers is not permitted whilst such a tyre is fitted
  - ii) The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.
  - iii) The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.
  - iv) Due to the speed restriction and the fact that the tyre compound is generally softer (to simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.
  - v) The use of pressurised tyre sealants will not be permitted in any circumstances

In addition tyres on the same axle must be of the same nominal size and aspect ratio

- l) Be properly fitted with seat belts of approved design for every passenger the vehicle is licensed to carry.
- m) Be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the *normal zone of vision* i.e. the front windscreen 75 per cent light transmittance and the front door windows 70 per cent light transmittance. In addition the remaining glass within the vehicle shall have a minimum light transmittance of not less than 70 per cent. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass (Policy).
- n) Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.
- o) Not be a convertible.
- p) Not fitted with a roof sign
- q) Not be fitted with a roof rack.
- r) Not draw a trailer.



- E4 Change of Address**  
The proprietor shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place.
- E5 Uniform**  
The proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or 'business type' suit when the vehicle is hired.
- E6 Change of Engine**  
The proprietor must inform the Council, in writing, within two working days of any change of the engine in the vehicle.
- E7 Change of Private Hire Operator**  
This vehicle may only be operated under the provisions of one Private Hire Operators Licence at any moment in time. The proprietor must notify the Council of any change in Private Hire Operator, in writing, using the Council's approved forms within 48 hours
- E8 Cleanliness**  
The proprietor must ensure that the private hire vehicle is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.
- E9 Convictions**  
The proprietor shall within seven days disclose to the Council in writing details of any criminal or motoring convictions, fixed penalties and/or caution imposed on him or, if the proprietor is a Company or Partnership, on any of the Directors or Partners during the period of the licence.
- E10 Deposit of Driver licence**  
If the Proprietor permits or employs any other person to drive the vehicle as a private hire vehicle, he shall before that person commences to drive the vehicle cause the driver to deliver to him his private hire driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his. Any person driving a private hire vehicle must be licensed, even if the vehicle is not being used for private hire purposes (also Section 46 (b) and (c) of LG (MP) Act 1976.
- E11 Letting/Leasing of vehicles**  
The proprietor shall not let or hire the vehicle identified in this licence to any other person, other than a fare paying passenger, without first notifying the Council in writing. NOTE: the proprietor will still be jointly responsible for the vehicle should a leasing arrangement be entered into.
- E12 Licence Plates**  
Whilst acting in accordance with the exemption certificate issued for this vehicle, no rear plate may be displayed from the vehicle but shall be carried within the boot of the vehicle and shall be produced to an authorised officer if required. The internal front display plate shall be carried on the front windscreen of the vehicle at all times whilst this vehicle is being used in accordance with the exemption certificate
- E13 Loss/Theft of Plate or licence**  
The proprietor must report the loss/theft of licence or identification plate(s) to the Licensing Section as soon as the loss becomes known and in any case, within 2 working days. A lost property/crime number must be obtained from the Police and details of this given to the Council.

**E14 Safety Equipment**

The vehicle must always carry in a conveniently and readily accessible position:

- a) A suitable and efficient multipurpose dry powder fire extinguisher or FFF aqueous foam fire extinguisher should be secured in the boot of the vehicle as recommended by the Fire Authority. (Where the extinguisher is to be used in an eight-passenger seat vehicle, which does not have a boot it is recommended that a FFF fire extinguisher is used. If a dry powder extinguisher is activated in a vehicle the powder may cause loss of vision).
- b) A first aid box, suitable for passenger carrying vehicles, must be available in the vehicle for use by a suitably trained person to provide emergency aid at an incident, (there is no expectation that a licensed driver without first aid training would do this). The first aid kit should be in a suitable airtight container marked with a white cross on a green background. The container must be clearly marked in indelible black ink with the vehicle licence number and must contain the following:

- |  |                                       |
|--|---------------------------------------|
| 1 first aid guidance leaflet             | 2 sterile eye pads                    |
| 1 sterile wound dressing (7.5cm x 4.5cm) | 10 antiseptic wipes (alcohol free)    |
| 24 assorted adhesive dressings           | 2 triangular bandages non-woven       |
| 2pairs disposable gloves                 | 12 safety pins                        |
| 3 sterile ambulance dressings            | 1 pair rust free blunt ended scissors |

**E15 Sliding Doors**

Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in motion and carrying passengers. The opening and closing mechanism shall not be altered so as to prevent the doors from locking into the open position

**E16 Uniform**

The proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or 'business type' suit when the vehicle is hired.

These Byelaws are made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 by the Council of the Borough Darlington with respect to Hackney Carriages in the Borough of Darlington.

1. Throughout these byelaws “the Council” means the Council of the Borough of Darlington and “the District” means the Borough of Darlington

## **2. Identification Plate**

- a) The proprietor of a hackney carriage shall cause the plate provided by the Council specifying the number of the licence granted to him and the permitted number of passengers in respect of that hackney carriage to be securely fixed to the outside of the carriage.
- b) The plate identifying the vehicle as a hackney carriage and required to be exhibited on the vehicle pursuant to Section 51 of the 1847 Town Police Clauses Act shall be securely affixed to the rear of the vehicle in a conspicuous position so that all particulars thereon are clearly visible by daylight from the nearside of the road, and in such manner as to be easily removable by an authorised Officer of the Council or a Constable.
- c) A proprietor or driver of a Hackney Carriage shall:
  - i) Not wilfully or negligently cause or suffer any such number to be concealed from view whilst the Hackney Carriage is standing or plying for hire;
  - ii) Not cause or permit the carriage to stand or ply for hire with any such plate so defaced that any figure or material particular is illegible

## **3. Maintenance of Vehicle**

The proprietor of a Hackney Carriage shall:

- a) Ensure that the Hackney Carriage and all its fittings and equipment shall at all times when the vehicle is available for hire or hired be kept in an efficient, safe, tidy and clean condition and in particular:
  - i) Provide sufficient means by which any person in the carriage may communicate with the driver.
  - ii) Cause the roof or covering to be kept watertight.
  - iii) Provide any necessary windows and a means of opening and closing not less than one window on each side
  - iv) Cause the seats to be properly cushioned or covered.
  - v) Cause the floor to be provided with proper carpet, mat or other suitable covering.
  - vi) Provide means for securing baggage if the carriage is so constructed as to carry baggage.
  - vii) Provide an efficient fire extinguisher, which will be carried in such a position as to be readily available for use.
  - viii) Provide efficient interior lighting
  - ix) Provide at least two doors for the use of persons conveyed in such a carriage and a separate means of entry and exit for the driver
  - x) Provide and maintain in the Hackney Carriage at all times a first aid kit in such a position so as to be readily visible and available for immediate use in an emergency.
  - xi) Cause a statement of the fares currently fixed by the Council to be displayed and maintained in such a position inside the Hackney Carriage so as to be clearly visible for passengers
- b) Make no material alteration to the specification, design, condition or appearance of the Hackney Carriage without the prior approval of the Council.

#### **4. Driver Licence**

The proprietor of a Hackney Carriage shall ensure at all times that the driver of a vehicle licensed as a Hackney Carriage, whether or not it is plying for hire at any particular moment holds a current driver's licence issued by the Council.

#### **5. Notifications**

- a) the proprietor or driver of the Hackney Carriage shall notify the Council without delay of any of the following incidents which concern the proprietor or driver whilst they hold a current licence issued by the Council:
  - i) Change of address
  - ii) Criminal conviction
  - iii) Road traffic accident involving any motor car whether or not it is a Hackney Carriage.
- b) the proprietor or driver shall ensure that at all times when the Hackney Carriage is available for hire or hired it is insured for public use hire.

#### **6. Taximeters**

- a) The proprietor of a motor propelled Hackney Carriage shall cause the same to be provided with a taximeter so constructed, attached, and maintained as to comply with the requirements of the Council and the taximeter shall be situated inside the carriage in such a position that all letters and figures of the face thereof may at all times be plainly visible to any persons being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably illuminated.
- b) The driver of a Hackney Carriage provided with a taximeter in accordance with Byelaw (6) shall as soon as the carriage is hired bring the machinery of the taximeter into action and thereby record on the face of the taximeter in figures clearly legible and free from ambiguity, a fare stating the rate of fare which the driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the rate of fare prescribed for the time being by the Council under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.
- c) On the coming into operation of a table of fares made by this Council the fare which the driver is entitled to demand and take for the hire of the carriage by distance shall be the rate of fare prescribed by the Council (provided nevertheless that a proprietor shall not offend against this Byelaw where the table of fares is varied by the Council and he has not had a reasonable opportunity to cause the taximeter to be altered or record the rate of fares in accordance with the table of fares as varied).
- d) A proprietor or driver of a Hackney Carriage shall not tamper or permit any other person to tamper with any taximeter, with which the carriage is provided, or with the fittings thereof, or with the seals affixed thereto.

#### **7. External Signs**

- a) Every proprietor of a Hackney Carriage shall cause the carriage to be fitted with a roof sign bearing the word "TAXI" and such other lettering or numbering as may be approved by the Council.
- b) No other lettering, numbering, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle except as may be required by any statutory provisions or required or permitted by the Council, provided, however that this shall not apply to a sign which:
  - i) is displayed in, on or from the vehicle whilst it is stationary; and
  - ii) contains no words or numbers other than the name and address of the operator of the vehicle or the name under which he carries on his business and the name of the passengers to be carried in the vehicle; and
  - iii) is displayed in pursuance of a prior arrangement made for the carriage of a passenger or passengers named in the sign.

## 8. Taxi Stands

The driver of a Hackney Carriage for which stands are fixed by the Council shall, when plying for hire in any street,

- a) Proceed with reasonable speed to one of such stands.
- b) If a stand, at the time of arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand.
- c) On arriving at the stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand so as to face in the direction designated by the Byelaw for that stand.
- d) From time to time when the carriage in front is driven off or moved forward, cause his carriage to be moved forward so as to fill the place previously occupied by the carriage in front.
- e) Not leave a Hackney Carriage unattended on a rank.

## 9. Importuning (Touting)

A proprietor or driver of a Hackney Carriage which is available for hire shall not, by calling out or otherwise, importune any person to hire such carriage, and shall not make use of the services of any other person for the purpose.

## 10. Behaviour

The driver of a Hackney Carriage shall:

- i) At all times be clean and respectable in his dress and person and behave in a civil and orderly manner.
- ii) Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the carriage.
- iii) Accord all reasonable assistance with passenger's luggage.
- iv) Not without the express consent of the hirer, smoke\*, drink or eat in the vehicle.
- v) Afford all reasonable assistance to elderly, infirm or disabled passengers.
- vi) Not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- vii) At no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the carriage which he is operating to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.

**NB \*Smoking is now prohibited in accordance with the Health Act 2006.**

## 11. Receipt

The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.

## 12. Animals

- a) The driver shall not convey in a Hackney Carriage any animal belonging to or in the custody of himself or the proprietor of the vehicle.
- b) Any animal belonging to or in the custody of any passenger which, at the driver's discretion, may be conveyed in the vehicle, shall only be conveyed in the rear of the vehicle, provided nevertheless that the driver of a Hackney Carriage shall not refuse to convey a guide dog accompanying a registered blind person nor shall such animal be restricted to the rear of the vehicle.

## 13. Attendance

The proprietor of a Hackney Carriage whether by himself, his driver, agent or employee who has agreed that the carriage attend at an appointed time shall, unless delayed or prevented by some sufficient cause, ensure that the carriage attends punctually at the appointed time and place

#### **14. Passengers**

A proprietor or driver of a Hackney Carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage, save that for the purpose of this Byelaw:

- a) Two children aged 10 years or less shall count as one person, although this calculation is not to be applied to permit more than four children aged 10 years or less to travel in the rear at the same time **(NB replaced by seat belt regulations)**.
- b) No child aged 10 years or less is permitted to travel in the front seat of a Hackney Carriage except an infant of two years or less who is conveyed in a child safety cot approved for this purpose by the British Standards Institute (or such future body which carries out the functions of the aforesaid Institute) securely affixed to the front passenger seat.

#### **15. Horse Drawn Vehicles**

The proprietor of a horse-drawn Hackney Carriage shall:

- a) Whilst standing or plying for hire, not drive or allow to be driven or harnessed or allowed to be harnessed to the carriage any animal in such condition as to expose any person conveyed or being in such carriage or any person traversing any street, to risk of injury.
- b) Shall while standing or plying for hire, cause every part of the harness of the animal or animals to be properly and securely attached to the carriage and under due control.
- c) Shall not in any street feed or allow to be fed any animal harnessed or otherwise attached to such carriage, except with food contained in the proper bag or other receptacle suspended from the head of such animal or from the centre pole of the carriage or which is held in and delivered with the hand of the person feeding such horse.

#### **16 Driver's Badge**

The driver shall at all times when driving a Hackney Carriage available for hire or hired, wear the driver's badge provided by the Council on the breast of the outer clothing and in such position and manner as to be plainly and distinctly visible.

#### **17 Penalties**

Every person who shall offend against any of these Byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale and in the case of a continuing offence a further penalty not exceeding £2 for each day after written notice of the offence from the Council.

#### **18. Interpretation**

- a) The Interpretation Act 1978 shall apply to these Byelaws as though they were an Act of Parliament.
- b) Proprietor, Hackney Carriage, taximeter, driver's badge, driver's licence, vehicle licence, have the same meaning as defined in Section 80(1) of the local Government (Miscellaneous Provisions) Act 1976.

This is a true copy of the byelaws with respect to Hackney Carriages made by the Council of the Borough of Darlington and confirmed by the Secretary of State for the Home Department.

The date fixed by him for the coming into operation of these byelaws was 1 March 1990.

**HV1 Advertisements**

- a) Any advertisement upon a Hackney Carriage requires the prior written approval of the Council. Approved advertisements may be placed on the rear doors and rear quarter panel only and be of a stick-on plastic film type material (magnetic panels will not be allowed). The following types of advertisement will be excluded
  - i) Any advertisement that it is felt likely to give rise to public offence will be refused.
  - ii) Any advertising of gambling, alcohol, tobacco or e cigarettes or a “prohibited practice” as described by the Consumer Protection from Unfair Trading Regulations 2008
  - iii) Any approved advertisement that is later found to give rise to justifiable public offence. This shall immediately be removed upon the instruction of an authorised officer.
- b) No other signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices shall be displayed in, on, or from the vehicle except as may be required by any statutory provision (including bylaws) or required or permitted by these conditions
- c) No illuminated or fluorescent advertisement shall be displayed on the inside the vehicle.
- d) No advertisement shall be placed on, or above, the roof level.

**HV2 Alteration of Vehicle**

The proprietor must not change the design, condition or appearance of the vehicle without first obtaining the written approval of the Council

**HV3 Appearance of Vehicle**

The vehicle must be approved by the Council and shall:

- a) Have at least four doors that can be opened from both inside and outside the vehicle.
- b) Be right-hand drive.
- c) Have an engine capacity of not less than 75 bhp<sup>18</sup>
- d) Have minimum seating capacity for at least four adult passengers and each seat shall not be less than 400 mm or 16 inches wide.
- e) Luggage must be properly secured in a vehicle which does not have a boot
- f) Be wind and watertight
- g) Have windows that can open on both sides of the vehicle.
- h) Have seats properly cushioned and covered
- i) Have a floor properly covered with carpet or other suitable covering;
- j) Have an adequate internal light to enable passengers to enter and leave the vehicle safely
- k) Have a spare wheel to fit the vehicle and equipment to change a wheel on the vehicle with that wheel e.g. a jack and wheel brace. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:
  - ii) The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.
  - iii) The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.
  - iv) Due to the speed restriction and the fact that the tyre compound is generally softer (to simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.
  - v) The use of pressurised tyre sealants will not be permitted in any circumstances

**In addition tyres on the same axle must be of the same nominal size and aspect ratio.**

- l) Be properly fitted with seat belts of approved design for every passenger the vehicle is licensed to carry.

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<sup>18</sup> **BHP** The definition of brake horsepower means an engine's actual horsepower which is measured by a dynamometer using a brake attached to the engine's driveshaft. A vehicles BHP can be found on the V5 logbook at P2 = Max. net power (kW)

- m) Be fitted with glass which is in accordance with current vehicle construction and use regulations prescribed in respect of the normal zone of vision i.e. the front windscreen 75 per cent light transmittance and the front door windows 70 per cent light transmittance. In addition the remaining glass within the vehicle shall have a minimum light transmittance of not less than 70 per cent. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass (policy).
- n) Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement
- o) Not be a convertible
- p) Not be fitted with a roof rack.
- q) Not draw a trailer.
- r) Be coloured red, and all of the painted body panels shall be the same colour of red proprietors are advised that they should consult with the licensing department, before purchasing a new vehicle, if they are in any doubt about the colour of the vehicle) (Policy).

#### **HV4 Booking Records**

The proprietor shall ensure that a record is kept of all pre-arranged bookings for the vehicle. The record must be kept in the form described in the following condition:

- a) Records must be kept in a suitable book, approved by the Council the pages of which are consecutively numbered.
- b) On a computer with backup records which is capable of producing a hard copy
- c) The proprietor or his/her agent/employee must enter, before the commencement of each journey, the following particulars of every booking of every hackney carriage operated by him/her:
  - i) the name and address of the hirer;
  - ii) the date, time and pickup point of the booking;
  - iii) the destination;
  - iv) the number of passengers to be carried;
  - v) when and how the booking was made i.e. telephone, personal call;
  - vi) the plate number of the vehicle allocated;
  - vii) the name of the driver allocated to the booking and call sign of the vehicle;
  - viii) the amount to be charged;
  - ix) remarks (including details of any sub-contract);
- d) All records are to be kept for a period of not less than 12 months following the date of the last entry and to be produced for inspection on the request of an Authorised Officer of the Council or a Police Officer

#### **HV5 Change of Address**

The proprietor shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place.

#### **HV6 Change of Engine**

The proprietor must inform the Council, in writing, within two working days of any change of the engine in the vehicle.

#### **HV7 Cleanliness**

The proprietor must ensure that the hackney carriage is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

#### **HV8 Convictions**

The proprietor shall within seven days disclose to the Council in writing details of any criminal or motoring convictions, fixed penalties and/or caution imposed on him or, if the proprietor is a Company or Partnership, on any of the Directors or Partners during the period of the licence.



## **HV9 Letting/Leasing of vehicles**

The proprietor shall not let or hire the vehicle identified in this licence to any other person, other than a fare paying passenger, without first notifying the Council in writing. NOTE: the proprietor will still be jointly responsible for the vehicle should a leasing arrangement be entered into.

## **HV10 Licence Plates**

- a) The rear identification plate, supplied by the Council, shall be securely fixed to the rear of the vehicle; in a conspicuous position approved by an authorised officer of the Council, using bolts or screws, or other method with written approval of the Council, in such a manner as to be easily removable by an authorised officer or constable.
- b) The front identification plate shall be securely fixed to the front of the vehicle in a conspicuous position approved by an authorised officer of the Council, using bolts or screws, or other method with written approval of the Council, in such a manner as to be easily removable by an authorised officer or constable.

## **HV11 Loss/Theft of Plate or licence**

The proprietor must report the loss/theft of licence or identification plate(s) to the Licensing Office as soon as the loss becomes known and in any case, within 2 working days. A lost property/crime number must be obtained from the Police and details of this given to the Council.

## **HV12 Records**

The proprietor must keep records, in a form approved by the Council, of all drivers and the hours worked by such drivers.

## **HV13 Safety Equipment**

The vehicle must always carry in a conveniently and readily accessible position:

- a) A suitable and efficient multipurpose dry powder fire extinguisher or FFF aqueous foam fire extinguisher should be secured in the boot of the vehicle as recommended by the Fire Authority. (Where the extinguisher is to be used in an eight-passenger seat vehicle, which does not have a boot it is recommended that a FFF fire extinguisher is used. If a dry powder extinguisher is activated in a vehicle the powder may cause loss of vision).
- b) The Hackney Carriage Proprietors licence number shall be painted upon the extinguisher, using indelible black ink, in letters at least 10 mm high
- c) A first aid box, suitable for passenger carrying vehicles, must be available in the vehicle for use by a suitably trained person to provide emergency aid at an incident, (there is no expectation that a licensed driver without first aid training would do this). The first aid kit should be in a suitable airtight container marked with a white cross on a green background. The container must be clearly marked in indelible black ink with the vehicle licence number and must contain the following:

1 first aid guidance leaflet	1 sterile wound dressing (7.5cm x 4.5cm)
24 assorted adhesive dressings	2 pairs disposable gloves
2 sterile eye pads	10 antiseptic wipes (alcohol free)
2 triangular bandages non-woven	12 safety pins
3 sterile ambulance dressings	1 pair rust free blunt ended scissors

## **HV14 Signs and Notices**

- a).The plastic disc approved and supplied by the Council shall be securely fixed in a central position on the nearside and offside front doors of the vehicle, using the adhesive backing provided. This sign must remain legible at all times. This disc carries the licence number for the vehicle and must remain legible at all times. **NB Magnetic discs are not permitted.**
- b).The vehicle shall display a Taxi roof sign, (except where the vehicle has an integrated roof sign) approved by the Council, which shall be maintained and capable of being operated in such a manner as to indicate clearly and conveniently to persons outside the vehicle whether or not the vehicle is for hire. The sign shall have only the word "Taxi" painted or printed in the colour black upon a white background. The rear of the sign should not show a white light at night.

- c). Where a hackney carriage is being operated through a Darlington Council licensed private hire business, the name of that operator shall be displayed on the outside of the rear doors of the vehicle.

#### **HV15. Sliding Doors**

Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in motion and carrying passengers. The opening and closing mechanism shall not be altered so as to prevent the doors from locking into the open position

#### **HV16. Swivel Seats**

Where fitted as a passenger seat, certificates of fitting from an authorised fitter must be obtained and produced to the Council before a vehicle can be tested and/or licensed.

#### **HV17. Meters**

- a) All vehicles must be fitted with a taximeter which complies with the Measuring Instruments (Taximeters) Regulations 2006 and must be of the calendar control type which is locked and sealed by an approved manufacturer/suppliers and/or installer.
- b) The meter must be directly linked to the roof sign so that when the meter is in use the roof sign is not illuminated. Override switches or similar devices which permit disconnection or unlinking of the meter to the illumination of the vehicle roof sign are prohibited.
- c) Meters must be installed into the vehicle in a suitable and secure manner at all times

#### **HV18 Charges**

An additional fee may **NOT** be levied over and above the metered fare in respect of

- a) credit or debit card charges.
- b) the loading, unloading, unloading or carriage of wheelchairs etc.
- c) the carriage of disabled passengers

#### **HV19 Wheelchair Accessible Vehicles (WAVs)**

Where a vehicle is built or adapted to carry wheelchairs which permit the wheelchair user to remain in their wheelchair throughout the journey, the proprietor and/or driver shall ensure that:-

- a) the wheelchair is positioned in the vehicle so as to permit the passenger to face forwards or rearwards, and
- b) the wheelchair is secured using the correct restraint system which is permanently secured to the vehicle, and
- c) the passenger is secured by an appropriate 3 point seat belt which is permanently secured to the vehicle and not by the wheelchair's lap belt
- d) Any wheelchair ramps, wheelchair securing straps, wheelchair seatbelt extensions and any other equipment necessary for the safe transportation of wheelchair users must be kept in the vehicle at all times. Such equipment must be of the correct type for the vehicle in which it is being carried and must at all times be in a safe, serviceable and clean condition. Any such equipment must be permanently marked with the registration number of the vehicle in which it is carried

## TABLE OF EXISTING VEHICLES BY AGE (AT 17 JUNE 2015)

Year	HCV Saloon	HCV Wheelchair	PHV Saloon	PHV Wheelchair	Grand Total
2003	1	2			3
2004	4				4
2005	4				4
2006	9				9
2007	14		3		17
2008	16	1	1		18
2009	14		2		16
2010	20	4	13	3	40
2011	8		10		18
2012	25	1	12		38
2013	28	1	21		50
2014	17	1	11		29
2015	4			1	5
<b>Grand Total</b>	<b>164</b>	<b>10</b>	<b>73</b>	<b>4</b>	<b>251</b>

**VEHICLE CRITERIA FOR EXCEPTIONALLY WELL MAINTAINED EXTERIOR**

1. All bodywork to be clean and sound, free from rust, dents, scrapes significant scratches or loose panels.
2. All paint work to be in first class condition – no “egg shell” finish, or different shades of colours on either external or interior areas, which are visible to the public.
3. All wheel trims to be fitted according to manufacturer’s specification and to match.
4. Aerials (where fitted) to be in good condition and free from rust.
5. Door or wing mirrors to be in good condition, no broken glass or surrounds.
6. No broken or missing glass or surrounds on all front and rear lights and indicators (including repeater indicators where fitted).
7. Front and rear number plates to be clean, clear and unbroken
8. Front and rear bumpers to be in first class condition, no rust, dents, scrapes (including any over riders and end surrounds) and should be securely fitted.
9. Mud flaps (if fitted) should be maintained.
10. Radiator grills should be secure and of original specification.
11. Front and rear (where fitted) windscreen wiper heads and arms should be in good condition, no rust and properly fitted.
12. Door and boot locks should be fitted and in good working order.
13. Doors should be easily opened and closed from the outside and inside.
12. All door handles should be properly fitted, easily operated and of original colour specification.
13. A spare wheel, which conforms, to legal requirements and equipment to change a wheel on the vehicle e.g. a jack and wheel brace should be provided and properly fitted in the vehicle. The exception to this requirement is when the manufacturer has provided a space saver tyre instead of a full size wheel. The use of pressurised tyre sealants will not be permitted in any circumstances
14. All tyres should conform to legal requirements.
15. All road wheels to be clean and free from rust (where trims are not fitted).

**VEHICLE CRITERIA FOR EXCEPTIONALLY WELL MAINTAINED INTERIOR**

1. All seats to be manufacturer's original design (unless rotating seat fitted) – should all match, be securely fitted, no dirt, stains, holes or tears.
2. Front and rear seat belts should be clean, undamaged and in good working order. All anchorage point covers should be properly fitted and match original trim.
3. All panels should be clean, properly fitted and match original trim.
4. Carpets should be as manufacturer's original specification, clean with no stains or holes and securely fitted
5. All instruments, including the PDA, two way radio and/or taximeter shall be secured within the vehicle and contained within a mounted bracket affixed to the vehicle and suitable for the purpose of preventing the instrument to travel round the vehicle in the event of an accident.
6. Accessory covers to be securely fitted and match original trim.
7. All ashtrays to be fitted and match original trim.
8. Headlining to be clean, free from stains, holes and tears and be as originally fitted
9. All window winder handles to be as originally fitted, clean and easy to operate. Where electric window openers are fitted, each window should be capable of being opened by the passenger
10. All door handles and arm rests to be secure, clean and as originally fitted.
11. Brake, clutch and accelerator pedal rubbers to be fitted and in good condition.
12. The inside of the vehicle should be free from loose or trailing wires.
13. The boot/luggage space should be tidy with a clean, unstained carpet/cover to manufacturer's specification. All panelling should be secure, clean and in good condition.
14. In hatchback vehicles the boot cover should be to original specifications, in good condition with both lifting straps fitted.
15. Where the vehicle is an estate car or does not have a fully segregated luggage compartment, a grille or similar guard sufficient to prevent luggage carried in the rear compartment from coming into contact with passengers in the vehicle shall be fitted.
16. Gear levers gaiters (where fitted) should be to manufacturer's specification, in good condition and properly fitted.
17. A rear view mirror must be properly fitted and in good condition.
18. All manufacturers fittings should be as original (i.e. speaker covers etc.).
19. All lights should be in proper working order with appropriate covers securely fitted.
20. Window locks and handles, where provided by the manufacturer should be in good working order.

**STANDS FOR HACKNEY CARRIAGE VEHICLES AS OF 31 MAY 2015 APPENDIX 19**

NB once the development on the Town Hall car park is completed it is anticipated that there will be a hackney carriage stand created for approximately 5 hackney carriage vehicles

<b>Stand</b>	<b>Location</b>	<b>Maximum Number of Spaces</b>
Beaumont Street West 7.00 pm – 7.00 am	On the north side from 8 metres west of Beaumont Street westwards for 40 metres	8 vehicles Vehicles to face east
Bondgate 9.00 am – midnight Midnight – 7.00 am	On the south side from 6 metres west of Skinnergate westwards for 20 metres	4 vehicles Vehicles to face west
Bondgate 6.00 pm – 8.00 am	On the south side from 11 metres east of Skinnergate eastwards for 18 metres	4 vehicles Vehicles to face west
Coniscliffe Road 6.00 pm – 6.00 am	On the south side from 20 metres east of eastern boundary of 3 Coniscliffe Road westwards for 45 metres	4 vehicles Vehicles to face west
East Row 24 hour	On the west side in the lay-by lying approximately 4 to 21 metres south of Tubwell Row	3 vehicles Vehicles to face north in a row parallel to carriageway
East Row 5.00 pm – 6.00 am Feeder Rank	On the east side in the lay-by lying approximately 5 to 26 metres south of Tubwell Row	3 vehicles Vehicles to face south
Gladstone Street 7.00 pm – 7.00 am	On the south side from 43 metres westwards for 85 metres west of Northgate	17 vehicles Vehicles to face west
Grange Road 24 hours	On the west side from 5 metres south of Coniscliffe Road to 10 metres north of Northumberland Street	4 vehicles Vehicles to face north
Grange Road 6.00 pm – 8.00 am Feeder Rank	On the west side from Northumberland Street northwards	2 vehicles Vehicles to face north
Priestgate 24 hours	On the south side from 5 metres east of Prebend Row to 10 metres west of Penny Yard	5 vehicles Vehicles to face west
Tubwell Row 6.00 pm – 8.00 am	On the north side in the lay-by from Crown Street westwards for approximately 30 metres excluding pedestrian route across lay-by	6 vehicles Vehicles to face east
Victoria Road 24 hours	On the north side 20 metres west of its junction with Pensbury Street, westward for 45 metres	9 vehicles Vehicles to face east.

1. The information below is specific to horse drawn carriages. Drivers will however be required to obtain the appropriate Council driver licence and will be subject to all of the requirements associated with such licence.

Proprietors and Operators of vehicles will be subject to those licence conditions that are relevant to public and/or private hire excluding those specifically relating to vehicle design etc. which have been replaced with the requirements detailed below.

## **POLICIES**

2. A competent person nominated by the Council (and representing the British Driving Society, the British Horse Society, the Heavy Horse Society or other body able to assess the competence of drivers) shall assess and provide a report stating that the driver is competent to drive the carriage as part of the application process.
3. A Veterinary Certificate signed by a Veterinary Surgeon stating that each horse is fit to carry out the work required of it shall be submitted to the Council as part of the application process
4. The location of the stables in which the horses are normally housed shall be notified to the Council's Licensing Office as part of the application process.

Access to the stables shall be granted to Council Officers and their advisers at any time.

(NB Should the Council receive a report from the RSPCA, a Veterinary Surgeon or other qualified person that the conditions under which the horses are being kept are not in the interests of the health of the animal and its capacity to pull a carriage, the Licence shall be suspended by Officers until satisfied that the horses are being kept in a humane manner.

The stables must also satisfy the fire safety requirements for stables by Darlington and Durham Fire and Rescue Service. In the event that the stables do not satisfy these requirements, the Licence will be suspended until adequate fire precautions have been made).

5. The Licence will be granted for a maximum period of 12 months. This may be subject to review in the event of any closure of streets on the approved route.
6. The proprietor/driver shall be limited to routes specified in writing by the Council following appropriate consultation.
7. The horse drawn vehicle shall not be required to comply with the following Darlington Hackney Carriage Byelaws 1990:
  - (a) Byelaw 3 (viii) provide efficient interior lighting
  - (b) Byelaw 6 taximeter
  - (c) Byelaw 7(a) fitting a roof sign bearing the word taxi

## **CONDITIONS**

8. The proprietor shall produce veterinary certificates as may from time to time be requested by Officers of the Council.
9. No horse shall work for more than eight hours during any one day and shall have at least one hour break between the commencement and termination of duties.
10. The proprietor shall keep written records for each horse showing if it is working with details of the time the horse was put into harness, taken out of harness and rest periods.
11. A safe means of access and egress from the vehicle (e.g. a step and secure hand holds) shall be provided.
12. The maximum fare to be charged shall be approved in writing by the Council.
13. The vehicle shall be capable of carrying not less than 4 adult passengers.

14. The proprietor must keep the area in the vicinity of the rank they operate from clean and clear of horse manure or any other obstruction of the highway associated with their use.
15. The proprietor must provide clean wholesome drinking water throughout the day for their horse.
16. A device must be attached to the horse to prevent its faeces being deposited upon the highway or hackney carriage stand.
17. The Proprietor shall make suitable arrangements for the proper disposal of horse faeces.
18. The vehicle shall be provided with front and rear position lights that meet the requirements of the Vehicle (Construction and Use) Regulations.
19. The Licence identification plate, supplied by the Council, shall be securely fixed to the rear of the vehicle; in a conspicuous position approved by an authorised officer of the Council, using bolts or screws.

## **GUIDANCE ON THE LICENSING OF HORSE DRAWN CARRIAGES**

### **Vehicles**

20. The driver of a horse drawn hackney carriage shall when plying for hire, proceed with reasonable speed to a Hackney Carriage stand. Hackney Carriages are allowed to ply for hire from stands (also known as taxi ranks), or in the street (there are currently no stands provided for horse drawn vehicles in Darlington and they would have to be created).

The Fares for hiring hackney carriage vehicles have to be decided by the Council and the tariff set must be displayed inside the vehicle.

### **Vehicle Licence**

21. Before operating a horse drawn vehicle to carry fare paying passengers a licence must be obtained from the Council. All licences issued will have conditions attached. To apply for a licence a person must:
  - (a) Complete an application form.
  - (b) Provide evidence that arrangements are in place for the vehicle to be insured for public on the days that it will be operating.
  - (c) Present the vehicle of mechanical inspection by a competent person appointed by the Council.
  - (d) Present the horse, or horses, for inspection by a veterinary officer appointed by the Council.
  - (e) Make the stables available for inspection by any person appointed by the Council.
  - (f) Demonstrate ability to comply with the Council's Byelaws and/or Conditions together with the Code of Practice for horse drawn vehicles published by the Department of Transport.
  - (g) Pay the licence fee.

### **Drivers – Qualifications**

22. Drivers of horse drawn hackney carriages must hold a current full Road Traffic Act 1972 licence together with a Hackney Carriage driver licence issued by the Council. All drivers will be required to demonstrate that they are competent to drive relevant horse drawn vehicles.

### **Department for Transport - Code of Practice for Horse Drawn Vehicles**

23. The Department for Transport has published a Code of Practice for Horse Drawn Vehicles. This code was developed in conjunction with The British Driving society, The British Horse Society and The Heavy Horse Training Committee. (Copies are available from the Public Protection Division.) The Council will expect the proprietor and drivers to work in accordance with this Code. The Code provides:
  - (a) guidance for new and existing drivers of horse drawn vehicles carrying passengers;
  - (b) a road driving assessment for single, pair and teams of horses;
  - (c) a detailed carriage safety checklist.



## PRIVATE HIRE OPERATOR LICENCES LEGISLATION, POLICIES AND CONDITIONS

### AUTHORISED OFFICERS (Legislation, Section 73 LG(MP)Act 1976)

1. You must not obstruct any Authorised Officer or police officer. You must provide any assistance or information (s)he may reasonably require.

### CRIMINAL RECORD CHECK (Policy)

2. If you are not a licensed driver you will be required to produce a basic Criminal Record Check or search results on criminal convictions obtained within the last month which can be either:
  - a) a criminal conviction certificate issued under The Police Act 1997; or
  - b) the results of a subject access search under Data Protection Act 1998 of the Police National Computer by the National Identification Service. This check will be required every 5 years.
  - c) In the case of a Limited Company all directors and the Company Secretary will be required to submit a basic Criminal Records Check as detailed above.

### LOCATION OF OPERATING PREMISES (Policy)

3. It is a requirement of licence that the applicant operates vehicles only from premises within the controlled district of the Council. These premises must also have planning permission for private hire use.

### SUBCONTRACTING PRIVATE HIRE BOOKINGS (SECTION 55 A AND B)

4. The Deregulation Act 2015 inserts two new sections into Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 in relation to the sub-contracting of bookings from one private hire vehicle operator to another. It applies in England and Wales, but not in London or in Plymouth where different legislation applies.

In accordance with the new provisions an operator who accepts a booking for a private hire vehicle can sub-contract it to four types of operator –

- a) an operator licensed and located in the same district as the initial operator;
- b) an operator licensed and located in a different district from the initial operator (a different district but one which is still governed by the same legislation – in practice this means a district in England or Wales but outside London or Plymouth);
- c) an operator licensed and located in London; or
- d) a person located in Scotland.

It is already lawful for a private hire vehicle operator to sub-contract a booking to another operator licensed in the same licensing district, it has been included within the new Act because it is not currently expressly stated within the Act of 1976.

Subsection (2) of new section 55A clarifies that the new provision affects the legal position in respect of PHV operation under the 1976 Act; it is immaterial if the agreement between the passenger making the booking and the initial operator permits sub-contracting.

The purpose of subsections (3), (4) and (5) of new section 55A is to cover the scenario of a private hire vehicle operator who is licensed under section 55 of the 1976 but also holds a private hire vehicle operator licence in a different district or operates in a different area. This could happen where, for example, a company operates in a number of different areas.

Subsection (3) covers the scenario where an operator holds licences under section 55 of the 1976 Act for more than one licensing district. Subsection (4) covers the scenario where an operator holds a licence under section 55 of the 1976 Act and also holds a private hire vehicle operator licence issued by Transport for London in respect of London.

Subsection (5) covers the scenario where an operator holds a licence under section 55 of the 1976 Act and also operates private hire cars or taxis in Scotland. Together, these subsections clarify that

operators may sub-contract bookings effectively to themselves in the other districts or areas in exactly the same way that an operator can sub-contract to different operators by virtue of subsection (1).

Subsection (6) provides that the terms “London PHV operator” and “operating centre” mean exactly the same as when they are used in the legislation which regulates private hire vehicles in London.

The new section 55B deals with operator liability in connection with sub-contracting. Subsection (1) simply draws a distinction between the operator who accepts the original booking and the operator who accepts the sub-contract (labelling them the first operator and the second operator respectively).

Subsection (2) of new section 55B establishes that an initial operator who sub-contracts a booking to an operator based in a different district or area in accordance with section 55A(1) does not breach the requirement in section 46(1)(e) of the 1976 Act (the requirement being that the driver and vehicle used to fulfil the booking must be licensed by the same licensing authority as granted the operator’s licence).

Subsection (3) applies to an operator licensed under section 55 of the 1976 Act who sub-contracts to an operator also licensed under section 55 of the 1976 Act (whether in the same or a different district). The subsection introduces criminal liability for the first operator if the second operator breaches the requirement in section 46(1)(e) in relation to the booking and the first operator knew the second operator would do so (i.e. knew the second operator would use a driver or vehicle that was not licensed in the same district as the second operator).

The section forms part of the law of England and Wales. It applies in England and Wales except in London or Plymouth where different legislation applies (although it does permit the sub-contracting of bookings to London operators).

Where a private hire vehicle is subcontracted the Private Hire Operator is obliged to keep a record of the subcontract

#### **PRODUCTION OF LICENCE (Legislation Section 56(4) LG(MP)Act 1976)**

5. You must produce your Private Hire Operator Licence when asked to do so by an Authorised Officer or Police Officer.

#### **TOUTING (Legislation – Section 167 Criminal Justice and Public Order Act 1994)**

6. The operator and/or his employees shall not:
  - a) tout or solicit on a road or other public place any person to hire or be carried out for hire in any private hire vehicle; or
  - b) cause or procure any other person to tout or solicit on a road or other public place any person to hire or be carried for hire in any private hire vehicle.
  - c) ("road" means any highway and any other road to which the public has access, including bridges over which a road passes).

#### **VEHICLE AND DRIVERS LICENCES (Legislation – Section 46 LG(MP)Act 1976)**

7. The Operator and/his employees shall not operate any private hire vehicle or driver if a current licence issued by the Council is not:
  - a) in force for the vehicle under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976; and
  - b) held by the driver under Section 51 of the said Act.

**PO1. Booking Records (Legislation Section 56 (2)-(4) LG(MP)Act 1976 and Condition PO1)**

Every licensed private hire operator must keep a record of every booking of every private hire vehicle operated by him/her and of every sub contract made with the operator or arranged by the operator. The records must be continuous, chronological records.

There must be only one set of records: cash and credit account bookings can be separately identified but must not be in separate sets of records

The record must be kept in the form described in the following condition:

- a) Records must be kept in a suitable form in a continuous, chronological order, approved by the Council the pages of which are consecutively numbered, or
- b) On a computer which keeps backup records and is immediately capable of producing a printed record from the computer onto paper. Records must not be capable of retrospective alteration or amendment, and
- c) The operator or his/her agent/employee must enter, before the commencement of each journey, the following particulars of every booking of every private hire vehicle operated by him/her, the:
  - Name and address of the hirer
  - Date, time and pickup point of the booking;
  - Destination;
  - Number of passengers to be carried;
  - When and how the booking was made i.e. telephone, personal call;
  - Plate number of the vehicle allocated;
  - Name of the driver allocated to the booking and call sign of the vehicle;
  - Amount to be charged; (where applicable)
  - Details of any sub contract arrangement.
  - Remarks
- d. You must also keep records of the particulars of all private hire vehicles and drivers operated by you. These must include the owner of the vehicle, registration number, private hire vehicle licence number, any radio call sign used and all driver licence numbers.
- e. All records are to be kept for a period of not less than **12** months following the date of the last entry and to be produced for inspection on the request of an Authorised Officer of the Council or a Police Officer.

You must not enter into your booking records details of any fare that has not been pre-booked by the hirer through your operating base, either by telephone or personal caller (NB It is an offence to enter details of any illegal plying for hire in an attempt to make such activity appear to be a legitimate booking).

**PO2. Booking Records – Hackney Carriages**

Where a licensed Private hire operator accepts bookings for hackney carriages a record must be kept of each booking in the same format as all private hire bookings and this record must be produced on the request of an Authorised Officer of the Council or a Police Officer.

**PO3. Change of Home Address**

You must notify the Council, in writing, within 7 days of any change of your personal address.

**PO4. Change of Business Address**

A Private Hire Operator licence is granted to you for the premises detailed at the time of application. It is not transferable to other persons or premises. Any change from the original application will be dealt with as a new application. You will be required to make a new application accordingly.

**PO5. Complaints**

- a) You must notify the Council, in writing, within 7 days of any complaints concerning a contract for hire or intended contract for hire relating to or resulting from his business and of the action (if any), which you have taken or propose to take.
- b) Where a complaint is investigated by an Authorised Officer of the Council you shall comply with any reasonable directions of the Officer in respect of that complaint.

**PO6. Convictions**

If you are cautioned for or convicted of any motoring or criminal offence you must notify the Council, in writing, within 7 days. If the licence is in the name of a Company or Partnership the cautions/convictions of any Directors or Partners must be disclosed.

**PO7. Display of Licence**

If the public has access to your operating premises you are required to display your Private Hire operator Licence in your operating premises together with a copy of your licence conditions and the Local Government (Miscellaneous Provisions) Act 1976.

**PO8. DTI Licences**

If you have two-way radios fitted to the vehicles you operate you must produce evidence of a DTI radio Licence to the Council and provide all details of radio frequencies, together with call signs/numbers of all vehicles using two-way radios.

**PO9. Equal Opportunities**

You must at all times treat your passengers or any potential passenger with courtesy and respect. You and your employees must not discriminate against any person because of their race, colour, creed, gender or disability.

**PO10. Facilities for Passengers**

You must ensure that where any passenger waiting area or room is provided, it is kept physically separate from any driver rest area and operations room. Where a waiting area or room is provided for the use of passengers or prospective passengers you shall:

- a. provide adequate seating for the use of those passengers or prospective passengers; and
- b. ensure that such room or area is kept clean, adequately heated, ventilated and lit; and
- c. ensure that the interior and exterior of the premises is kept in good repair, to the satisfaction of the Council.

**PO11. Fares**

The fare charged by you shall be agreed with the hirer at the time of booking.

**PO12. Parking**

Where adequate off street parking is not available at the operating address specified on the licence you shall inform the Council, in writing all locations where vehicles will be parked when waiting for bookings.

**PO13. Planning Permission**

You must have Planning permission for private hire use at your operating premises. You must comply in every respect with the requirements of the current planning legislation.

**PO14. Right of Access**

You must permit any Authorised Officer of the Council onto your operating premises at all times when acting as a Private Hire Operator and provide him/her with access to all records which (s)he may reasonably require.

**PO15. Standard of Service**

You must provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose must, 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 must, unless preventable matter, attend at the appointed time and place.
- b. Keep clean, adequately heated, ventilated and lit any premises which you provide and to which the public have access, whether for the purpose of booking or waiting.
- c. Ensure that any telephone facilities and radio equipment provided are, at all times, kept in good working order and that any defects are repaired promptly.
- d. Ensure that you do not describe the private hire service offered by the use of advertising signs, printed words, broadcasts or by any other media which use the words "Hackney Carriage" or "Taxi".

**PO16. Taximeters**

When taximeters are used you must notify the Council of the fare rate and any subsequent changes made to that fare rate during the period of your Operator licence. Where any vehicle operated is fitted with an approved taximeter you shall ensure that the taximeter is set to the fare rate notified to the Council and properly sealed in accordance with Council regulations.

**PO17. Vehicles to be used**

It shall be a requirement that hackney carriage and private hire vehicles and drivers that have been licensed by Darlington Council shall be used within the controlled district of Darlington unless it is necessary to sub-contract a booking. In this case the operator must ensure that the same standard of vehicle and driver is provided by the sub-contractor. This is to ensure that the travelling public of Darlington are provided with a consistent standard of service

**PO18** If you are to be absent for 15 days or more you must notify the Council in writing, prior to the absence. A responsible person should be nominated to take responsibility of the business during your absence. Contact details of this person must be provided, in writing to the Council. You will still be responsible for all activities relating to the operation of the business.

## INTRODUCTION

1. The Council's Licensing Committee exercises the Council's functions in relation to the licensing of Hackney Carriage and Private Hire vehicles, drivers and operators, in accordance with the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and other relevant legislation. When dealing with such matters Licensing Officers and the Licensing Committee will have regard to the Council's Private Hire and Hackney Carriage Policies.
2. When the Committee considers matters concerning a Licensee/ Applicant its first purpose is to protect the public. The Committee operates in a quasi-judicial capacity and the rules of natural justice must be observed. The Licensee/Applicant must not only be treated fairly but must also be seen to be treated fairly. The Committee must be impartial, unbiased and must always act in good faith.
3. The Committee is required to make judgements based on the evidence submitted to it. It is not the Members' role to sit as advocates of the Licensing Office, the Police or the Licensee/Applicant but to weigh the merits of each case - ensuring that the proper considerations are taken into account and irrelevant factors are ignored, thereby reaching a balanced decision. The Committee must also state the reasons for its decisions. The Committee does not have the power to "look behind" a conviction to see if the person should have been convicted.
4. Only Committee members who have heard the entire application or disciplinary matter are able to take part in the decision making process.
5. Committee members cannot participate in the hearing of a matter if there is apparent bias. This can arise where a Member has outside connections that make it appear that there is a real danger of bias or a member has a prejudicial interest. Personal interest in a matter under consideration must be declared. Where a prejudicial interest exists the member must withdraw from the meeting room.
6. A prejudicial interest exists where a member has a personal interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest and it either:
  - a) affects the financial position of the relevant person or body; or
  - b) relates to the determination of any approval, consent, licence, permission or registration in relation to that person or body.

## DISCIPLINARY OR OTHER MATTERS

7. In accordance with the Council's constitution, the Committee is authorised to:
  - a) determine the appropriate disciplinary action (if any) to take against licensees referred to it by the Licensing Office; and to
  - b) determine any licensing application or other matter concerning individual licensees referred to it by the Licensing Office.
8. When considering a referred matter e.g. an application for a licence, the Committee will have regard to the appropriate section of the policy.
9. Appropriate disciplinary action can take a number of forms, for example:
  - a) Suspension or Revocation of a licence.
  - b) Refusal to renew a licence.
  - c) A warning or final warning letter expressing the Council's concern with the Applicant/Licensee's behaviour, whilst also advising that future conduct could lead to a revocation or refusal to renew a licence.
  - d) Additional conditions if considered reasonably necessary may be attached to a licence when it is renewed (note: conditions cannot be attached to a Hackney Carriage Driver's Licence).

- e) A requirement to attend the Driver improvement Scheme at the driver's own expense where considered reasonably necessary.
  - f) A requirement to provide further information e.g. the production of a medical more regularly than the standard requirement for drivers.
10. The action taken in any particular case will depend on the seriousness of the conduct/conviction/medical condition concerned. A licence may be suspended pending further information (e.g. the outcome of an investigation or court action) but suspension will not be used as a disciplinary tool.
  11. The purpose of a Licensing Committee hearing is to ensure that the Licensee/Applicant and complainant (where applicable) have the fullest opportunity to present all of the information they wish. The Committee is required to give full and fair consideration to the cases presented by the Officers and the Licensee/Applicant and must reach a decision based on all of the relevant information presented to it at the hearing. To achieve this, the following procedure is adopted.

## **PRIOR TO THE HEARING**

12. Where the Licensing Manager refers a matter to the Licensing Committee for determination the Licensee/Applicant shall be informed of this and a report shall be prepared for the Committee.
13. A full copy of the report to Committee shall be supplied to the Licensee/Applicant by the Licensing Office. Copies of the relevant Private Hire and Hackney Carriage Policies are available on the internet or upon request from the Licensing Office. Licensees/Applicants are strongly advised to read this document when preparing for the hearing.
14. The Licensee/Applicant shall normally be given notice at least seven days in advance of the time and place of the hearing and advised of their right to be accompanied by a friend or other person, including a solicitor. (S)he shall be allowed to call witnesses.
15. The Licensee/Applicant may, if they wish, submit a written statement of his/her case or other supporting documents prior to the hearing. Documentation should be provided to the Licensing Office well in advance of the hearing. If it is not or if the Committee has not had sufficient time to consider the documentation the Committee may refuse to accept the documentation or it may be necessary for consideration of the case to be deferred.

## **ABSENCE OF THE LICENSEE/APPLICANT**

16. The meeting may proceed in the absence of the Licensee/Applicant if they have informed the Licensing Authority or the Democratic Support Officer that they do not wish to attend or be represented at the hearing. If the Licensee/Applicant would like the meeting to be adjourned to enable them to attend then they must make this clear and provide reasons in writing prior to the meeting.
17. If the Licensee/Applicant fails to attend a meeting without notifying the Licensing Office or Democratic Support Officer, the Committee may adjourn the hearing to a specific date if it considers it to be appropriate to do so. Alternatively it may proceed with the meeting in their absence.
18. Where the Committee decides to proceed in the absence of the Licensee/Applicant it will consider the information they have available along with the report from the Licensing Manager.
19. If a decision is made to adjourn a hearing the Licensee/Applicant will be advised of the new date, time and venue.

## **AT THE HEARING**

20. The Licensing Manager or their representative shall present the report in the presence of the Licensee/Applicant (subsequently referred to as "the Applicant").
21. The Applicant shall be invited to confirm the accuracy of the report.

22. The Members will ask any questions they may have of the Officer.
23. Where witnesses have attended (e.g. in the case of a complaint) they shall be invited to provide relevant information. Members and the Applicant/their representative may ask any relevant questions.
24. The Applicant or their representative shall present their case and respond to any questions.
25. Where appropriate the Police may be asked to comment.
26. The Applicant will be offered the final opportunity to sum up their case.
27. The Applicant and representative, Officers, the Police and any witnesses shall withdraw from the meeting. Officers from Legal and Democratic Services will remain in the meeting to provide procedural and legal advice.
28. The Licensing Committee shall deliberate in private, only recalling the Applicant or representative and Officers to clear up points of uncertainty. If this occurs all parties will be invited back into the hearing together. If the Committee has no additional queries then all parties will be called back into the meeting when the Chairman of the Committee will announce the decision of the Committee.
29. The Applicant will be notified of the Committee's decision and the reasons for it in writing, usually within five working days. Where a licence has been revoked or a renewal has been refused written notice must be given within fourteen days.

## **APPEAL TO THE COURT**

30. There is a statutory right of appeal to the Magistrates Court in relation to:
  - a) A refusal to grant a private hire or hackney carriage driver licence.
  - b) Any conditions attached to a private hire driver licence.
  - c) A decision to suspend, revoke or refuse to renew a private hire of hackney carriage driver licence.<sup>19</sup>
  - d) A refusal to grant a private hire vehicle licence or against any conditions specified in the licence.
  - e) A refusal to grant an operator's licence or any conditions attached to the grant of an operator's licence.
  - f) A decision to suspend, revoke or refuse to renew an operator's licence.
31. An appeal against a refusal to grant a Hackney Carriage vehicle licence is dealt with by the Crown Court.
32. Any appeal must be lodged with the appropriate Court within 21 days of notification of the decision. This time scale is rigid following case law in 2009 concerning this point.
33. Costs may be awarded by the Court against an unsuccessful appellant and therefore the Applicant may wish to take independent legal advice with regard to the merits of an appeal.
34. Usually, when an appeal has been lodged, any action against the licence is "stayed" pending the outcome of the court appeal (S.77(2)LG(MP) Act 1976) and a licensed driver, operator and or vehicle can continue to work.
35. However, in cases where in the interests of public safety a decision has been made that a suspension or revocation of a driver licence should take immediate effect s.77(2) shall not apply and a driver cannot continue to drive pending the outcome of the appeal. In such cases the driver must be notified in writing, with an explanation as to why such action has been taken.
36. Decisions of the Licensing Committee may also be challenged by way of judicial review in the High Court. Independent legal advice should normally be sought in respect of all appeals and challenges.

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<sup>19</sup> See 34 - 35 below



The following have been consulted in respect of this proposed policy document:

- a) All HC proprietor
- b) All PH proprietors
- c) All PH Operators
- d) All licensed drivers
- e) Durham Constabulary
- f) Darlington Association on Disability (DAD)
- g) Consumer and Passenger Groups
- h) Darlington Council's Safeguarding Children's Unit
- i) Planning Authority
- j) HM Revenue and Customs
- k) Department of Work and Pensions
- l) Other Transport Providers, i.e. Arriva, Scarlett Band, National Express, Teesside Airport
- m) The Transport Users Forum
- n) Members of the Council's Licensing Committee
- o) Ward Councillors
- p) Other Tees Valley Licensing Authorities
- q) Officers of Darlington Borough Council