

To: All Members of the LICENSING AND
REGULATORY COMMITTEE
(Other Members for Information)

When calling please ask for:

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Date: 30 October 2020

Membership of the Licensing and Regulatory Committee

Cllr Robert Knowles (Chairman)
Cllr Roger Blishen
Cllr Martin D'Arcy
Cllr Jerome Davidson
Cllr Patricia Ellis
Cllr Maxine Gale

Cllr Michael Goodridge
Cllr Jerry Hyman
Cllr Anna James
Cllr Jacquie Keen
Cllr Michaela Martin
Cllr Ruth Reed

Substitutes

Cllr Peter Isherwood
Cllr Jenny Else

Cllr Joan Heagin
Cllr John Ward

Members who are unable to attend this meeting must submit apologies by the end of Monday, 2 November 2020 to enable a substitute to be arranged.

Dear Councillors

A meeting of the LICENSING AND REGULATORY COMMITTEE will be held as follows:

DATE: MONDAY, 9 NOVEMBER 2020

TIME: 10.00 AM

PLACE: Zoom

The Agenda for the meeting is set out below.

The meeting can be viewed remotely in accordance with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, via the Council's YouTube page.

Yours sincerely

ROBIN TAYLOR
Head of Policy and Governance

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NOTE FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc. in advance of the meeting with the appropriate officer.

AGENDA

1. **MINUTES** (Pages 5 - 8)

To receive the minutes of the meeting held on 30th July 2020.

2. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

To receive apologies for absence and to report any substitutions

3. **DECLARATIONS OF INTEREST**

To receive from members declarations of interest in relation to any items included on the agenda for this meeting, in accordance with the Waverley Code of Local Government Conduct.

4. **QUESTIONS FROM MEMBERS OF THE PUBLIC**

The Chairman to respond to any questions received from members of the public in accordance with Procedure Rule 10.

The deadline for submission of written questions for this meeting is Monday 2nd November 2020.

5. **QUESTIONS FROM MEMBERS**

The Chairman to respond to any questions received from Members in accordance with Procedure Rule 11.

The deadline for submission of written questions for this meeting is Monday 2nd November 2020.

6. **ACTION AUTHORISED**

To receive any action taken by the Executive Director after consultation with the Chairman and Vice-Chairman since the last meeting.

7. HACKNEY CARRIAGE AND PRIVATE HIRE POLICY REVIEW CHANGES TO LEGISLATION (Pages 9 - 150)

The Committee to consider a number of proposed changes to the Hackney Carriage/Private Hire Licensing Policy to reflect the Department for Transport Statutory Taxi & Private Hire vehicle Standards July 2020 report on a safer system of taxi and private hire vehicle licensing and other proposed changes following review by Officers and to agree a basis for consultation with the Taxi and Private Hire trades and the public.

Recommendation

It is recommended that the Licensing and Regulatory Committee:

- considers the draft Hackney Carriage and Private Hire Licensing Policy at Annexe 4 and agrees it, with or without amendments, as a basis for consultation, and;
 - notes The Department Of Transport 'Statutory Taxi & Private Hire Vehicle Standards' report;
 - notes the agreed actions from Waverley's Licensing & Regulatory Committee of 13 January 2020;
 - approves officer recommendations on the Statutory Taxi & Private Hire Vehicle Standards' report outlined at Annexe 3;
 - notes that a number of minor administrative changes and typographical corrections have been made;
 - delegates authority for minor administrative changes, typographical corrections and grammatical changes for easier reading to be approved by the Head of Environmental & Regulatory Services.

8. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:-

Recommendation

That pursuant to Procedure Rule 20 and in accordance with Section 100B(5) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in the appropriate paragraph(s) of the revised Part 1 of Schedule 12A to the Act (to be identified, as necessary, at the meeting).

9. LEGAL ADVICE

To consider any legal advice relating to any items in the agenda.

**For further information or assistance, please telephone
Kimberly Soane, Democratic Services Officer, on 01483 523258 or by
email at kimberly.soane@waverley.gov.uk**

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING AND REGULATORY COMMITTEE - 30 JULY 2020

SUBMITTED TO THE COUNCIL MEETING – 11 AUGUST 2020

(To be read in conjunction with the Agenda for the Meeting)

Present

Cllr Robert Knowles (Chairman)	Cllr Jerry Hyman
Cllr Michael Goodridge (Vice Chairman)	Cllr Anna James
Cllr Roger Blishen	Cllr Jacquie Keen
Cllr Martin D'Arcy	Cllr Michaela Martin
Cllr Jerome Davidson	Cllr Ruth Reed
Cllr Patricia Ellis	

Apologies

Cllr Maxine Gale

Also Present

Councillor Peter Isherwood, Councillor Jenny Else and Councillor John Ward

LIC9/20 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS (Agenda item 1.)

Apologies for absence were received from Cllr Maxine Gale.

The Committee recorded a vote of thanks to Cllr Peter Clark who had resigned from the committee due to other commitments. The Chairman welcomed Cllr Jerry Hyman to the Committee in his place.

LIC10/20 ELECTION OF VICE-CHAIRMAN (Agenda item 2.)

Following the resignation of Cllr Peter Clark it was necessary to elect a new Vice Chairman. Cllr Ruth Reed nominated Cllr Michael Goodridge and Cllr Jacquie Keen seconded the nomination.

The committee unanimously **AGREED** to the nomination and Cllr Goodridge was elected.

LIC11/20 APPOINTMENT OF MEMBERS TO SUB COMMITTEES (Agenda item 3.)

Following Cllr Clark's resignation there was a vacancy on the Licencing Act 2003 Sub-Committee A and the Licensing and General Purposes Sub-Committee.

Cllr Jacquie Keen volunteered to take up the vacancy on the Licensing and General Purposes Sub-Committee and Cllr Michaela Martin volunteered to fill the vacancy on Licencing Act 2003 Sub-Committee A.

The Committee agreed to both appointments.

LIC12/20 DECLARATIONS OF INTEREST (Agenda item 4.)

There were no declarations of interest submitted.

LIC13/20 QUESTIONS FROM MEMBERS (Agenda item 5.)

There were no questions from members submitted.

LIC14/20 PAVEMENT LICENSING (Agenda item 6.)

Richard Homewood, Head of Environmental & Regulatory Services, outlined the report and associated draft policy attached to the agenda.

He advised that the government had introduced through Parliament a new streamlined 'temporary' process to apply for a 'Pavement License', to assist in business recovery following the Covid-19 pandemic and associated lockdown. The Business and Planning Act had been passed on 21 July 2020, including a late change that made the Pavement Licensing function a Council function rather than an Executive function.

The Committee asked how many licenses he expected to receive applications for and Mr Homewood advised they were estimating approximately 60. He pointed out that not all premises would need a license if they had a private forecourt.

Cllr Hyman provided detailed comments on editing and content of the report and policy and asked for clarification within the policy on a number of matters including time periods for determining applications, use of barriers, and distancing. Committee members also noted that there were some inconsistencies in the conditions in relation to use of outdoor heaters, for example. Mr Homewood thanked Members for their detailed comments

The Committee endorsed the principle of the policy and the need to help businesses recover from the lockdown, and **RESOLVED** to recommend that Council:

- i. Adopts the policy set out in Annexe A.
- ii. Sets the fee for a pavement license at £100.
- iii. Delegates authority to the Head of Environmental and Regulatory Services to issue pavement licences and/or authority to refuse or amend pavement licences in consultation with the Chairman of the Licensing and Regulatory Committee.
- iv. Delegates authority to the Head of Environmental and Regulatory Services in relation to enforcement powers under the new proposed legislation (the Business and Planning act 2020 once enacted).
- v. Delegates authority to the Head of Environmental and Regulatory Services to make minor or consequential amendments to the Policy and Licence conditions in the event of any amendments/ updating statutory instruments and or government guidance in consultation with the chairman of the Licensing and Regulatory Committee.

LIC15/20 EXCLUSION OF PRESS AND PUBLIC (Agenda item 7.)

There were no items to discuss in exempt session so the Chairman closed the meeting.

The meeting commenced at 11.00 am and concluded at 12.42 pm

Chairman

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Waverley Borough Council

LICENSING AND REGULATORY COMMITTEE

09 NOVEMBER 2020

Title:

HACKNEY CARRIAGE AND PRIVATE HIRE POLICY REVIEW

Portfolio Holder: Cllr Nick Palmer, Portfolio Holder for Operational & Enforcement

Head of Service: Richard Homewood
Head of Environmental & Regulatory Services

Key decision: No
Access: Public

1.0 Purpose and Summary:

- 1.1 This report proposes a number of changes to the Hackney Carriage/Private Hire Licensing Policy to reflect the Department for Transport Statutory Taxi & Private Hire vehicle Standards July 2020 report on a safer system of taxi and private hire vehicle licensing and other proposed changes following review by Officers and to agree a basis for consultation with the Taxi and Private Hire trades and the public.

2.0 Introduction

- 2.1. Waverley's current Hackney Carriage/Private Hire Licensing Policy was initially adopted in July 2010 and the current version has been in effect since 1 March 2018.
- 2.2 In 2017, the Minister for Transport John Hayes MP announced in the Commons that he was to establish a Task and Finish Group (TFG) to examine taxi and private hire licensing, with a view to highlighting the current dilemmas faced by licence holders and recommending possible legislative reform. The report was submitted to Government in July 2018. On 12th February 2019, the Department of Transport issued its response to the Task and Finish Group report and in July 2020 The Department of Transport issued The Statutory Taxi & Private Hire Vehicles Standards.

The government issued these statutory taxi and private hire vehicle standards to licensing authorities, outlining how they should carry out their licensing function.

- 2.3 At the end of 2019 Officers conducted a review of Waverley's Hackney Carriage & Private Hire Policy. There were a number of existing conditions which Officers felt required update/clarification. It was also felt appropriate to incorporate recommendations from the Department of Transport on the report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing, given the outdated legislation and the new challenges facing the taxi industry.
- 2.4 On the 13 January 2020 the Licensing & Regulatory Committee considered the changes and recommendations to the policy and agreed a basis for consultation. Attached at **Annexe 1** is a list of the agreed actions.
- 2.5 Officers subsequently consulted on the policy and were due to bring the comments from the consultation to the Licensing & Regulatory Committee on the 23 March 2020 for consideration. This was overtaken by circumstances due to the Council's reprioritisation of services connected to the Covid-19 outbreak etc., and with members' agreement this meeting was postponed.
- 2.6 Since the postponement, the Government has published the Department of Transport's 'Statutory Taxi & Private Hire Vehicle Standards', a copy of which is attached at **Annexe 2**.
- 2.7 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department of Transport therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**

"Having regard" to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. It is not a question of box ticking; the standards must be considered rigorously and with an open mind.

Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and

the policies and delivery plans that stem from these. The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

- 2.8 Attached at **Annexe 3** is a table of the Government's Standards, Waverley's current policy situation and officers' recommendations.
- 2.9 Following the publication of the report and the impact it has on the Hackney Carriage/Private Hire Licensing Policy, officers have conducted a further review of a number of existing conditions to incorporate the recommendations from the Department of Transport on Taxi and Private Hire Vehicle Standards. A copy of the current Hackney Carriage Policy, with previously proposed amendments marked in colour, and further proposed amendments in block yellow is attached at **Annexe 4**.
- 2.7 Once considered by the Licensing and Regulatory Committee, any proposed updates to the policy, can be sent out for consultation

3.0 Conclusion

- 3.1 The Committee is asked to consider the report and the recommended changes to the Hackney Carriage/ Private Hire Licensing Policy and agree those recommendations as a basis for public consultation. The Policy is ultimately agreed by the Committee as part of the Policy Framework, and the outcome of the feedback from the consultation will be reviewed before final recommendations are made to the Licensing and Regulatory Committee

4.0 Recommendation

- 4.1. It is recommended that the Licensing and Regulatory Committee
- . considers the draft Hackney Carriage and Private Hire Licensing Policy at Annexe 4 and agrees it, with or without amendments, as a basis for consultation; and;
- notes The Department Of Transport 'Statutory Taxi & Private Hire Vehicle Standards' report
 - notes the agreed actions from Waverley's Licensing & Regulatory Committee of 13 January 2020
 - approves officer recommendations on the Statutory Taxi & Private Hire Vehicle Standards' report outlined at Annexe 3.
 - notes that a number of minor administrative changes and typographical corrections have been made

- delegates authority for minor administrative changes, typographical corrections and grammatical changes for easier reading to be approved by the Head of Environmental & Regulatory Services.

5.0 **Reason for the recommendation(s)**

- 5.1 A review of the existing Policy is necessary following receipt of the Department Of Transport 'Statutory Taxi & Private Hire Vehicle Standards' report and on the basis of a number of Officer observations based on recent experience in administering and enforcing the policy.

6.0. **Relationship to the Corporate Strategy and Service Plan(s)**

- 6.1 Relevant matters within the Corporate strategy to this report are :-
 a thriving local economy, supporting business and employment;
 sense of responsibility for environment and protecting the planet;
 encouraging small businesses;
 encouraging carbon reduction and promotion of transport; and
 taking action on air quality issues.

Aspects of the report and proposals may be also be relevant to key decisions on the Council's forward programme, specifically in respect of Air Quality and Electric Vehicle Charge strategy.

7.0 **Implications of decision(s)**

7.1 **Resource (Finance, procurement, staffing, IT)**

Provision is made in the Council's budget for the licensing service which is run on a costs recovery basis. The immediate resource implications would be officer time, the cost of the consultation on the policy, the possible advertising of any changes and following adoption. Any changes to policies and practices may result in additional costs to the licensing regime. There is the potential for legal challenge to any amendments to policy and if so, there may be legal costs incurred to defend any such challenge. Any additional costs associated with the administration and enforcement of the licensing regime can be recovered via taxi licensing fees.

7.2 **Risk management**

The Taxi and Private Hire Licensing Policy is in place to ensure public safety when using these services and to ensure the appropriate balances and mitigations are in place to minimise risk to public safety whilst enabling businesses to trade effectively, efficiently and legally.

7.3 **Legal**

Waverley is responsible for licensing Hackney Carriage, Private hire and dual drivers, proprietors and operators within the area. primarily through the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 as well as other legislation.

The Statutory Taxi and Private hire vehicle Standards are not legislation but at para 1.3 of the Standards “The Department (for Transport) expects these recommendations to be implemented unless there is a compelling local reason not to” and which are effective and operative immediately (section 177). The document makes clear that the standards have been developed as a result of past failings of licensing regimes and makes reference to both Jay and Casey reports listing several local authorities where taxi licensing policy and practice have failed to offer the necessary protection to children.

The duty is a ‘have regard’ duty. This means that the Council must take the standards into account and must give clear reasons for departing from them.

The Hackney Carriage and Private Hire licensing policy applies to all drivers, vehicles and operators and the policy is intended to ensure the trade and the public have access to a document that fully explains the licensing requirements to all in a clear and transparent manner.

7.4 **Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the Council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010. No equality impact assessment has been conducted in connection with the preparation of this report but an equality impact assessment would be conducted as part of the consultation process, once the basis for any consultation is known.

7.5 **Climate emergency declaration**

The recommended conditions in relation to the age of vehicles and the measures to encourage a change to Ultra Low Emission Vehicles will help contribute toward the Council’s target for net zero carbon emissions by 2030

8.0 **Consultation and engagement**

8.1 The recommended changes of the Taxi and Private Hire Licensing Policy set out above will be subject to consultation with the Taxi and Private Hire trade and the public before being finalised.

9.0 **Other options considered**

9.1 Other options considered are commented on throughout the report.

10.0 **Governance journey**

10.1 Trade and Public Consultation with final recommendations to Licensing and Regulatory Committee.

Annexes:

Annexe 1 – Agreed actions of the Licensing & Regulatory Committee 13/01/2020

Annexe 2 – A copy of The Statutory Taxi & Private Hire Vehicles Standards

Annexe 3 – A a table of the Governments Standards, Waverley’s current policy situation and officers recommendations

Annexe 4 – A copy of the current Hackney Carriage Policy, with proposed amendments

Background Papers

Briefing note on the Statutory Taxi and Private Hire Vehicle Standards and implications for licensing regulation – by Phillip Kolvin QC (Local Government Lawyer article)

<https://www.localgovernmentlawyer.co.uk/licensing/316-licensing-features/44447-statutory-taxi-and-private-hire-vehicle-standards>

Background papers are those that are referred to in the report, but are not published and accessible to the public.

CONTACT OFFICER:

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Agreed and signed off by:

Legal Services: date

Head of Finance: date

Strategic Director: date

Portfolio Holder: date

Agreed Actions - Licensing & Regulatory Committee 13
January 2020

Having considered the report, the Committee

1. RESOLVED to recommend to Full Council that:

Joint Warranting (See draft policy pg 8)

i. the Hackney Carriage (Taxi) and Private Hire enforcement functions under the legislation of the report be delegated to the Surrey Local Licensing Authorities, in addition to these functions being retained within the Borough; and, to similarly receive the same delegated Taxi and Private Hire enforcement functions of the Surrey Local Licensing Authorities.

And,

ii. the responsibility for relevant Taxi and Private Hire licensing legislation in accordance with Part 3 (Responsibility for Functions) of the Council's Constitution, which confirms an existing delegated power to the Head of Environmental & Regulatory Services at part I.3 of the Council's Scheme of Delegation (authorisation to enforce all relevant Hackney Carriage (Taxi) and Private Hire licensing legislation), be extended to include the authorisation of officers of other Surrey authorities participating in a Joint Warranting Scheme.

2. RESOLVED to ask the Head of Environmental & Regulatory Services to write to the neighbouring licensing authorities in other counties to explore development of similar reciprocal joint warranting arrangements.

(PLEASE NOTE THIS WAS APPROVED BY FULL COUNCIL ON 18TH FEBRUARY 2020)

TAXI POLICY COVERING REPORT RE PROPOSED CHANGES FOR CONSULTATION 2020.

- Window Tinting - for the purposes of consultation the policy would propose the same approach as Spelthorne (Regulatory minimum light transmission for the windscreen (75%) and front side windows (70%); at least 22% light transmission for rear side windows; and no minimum transmission requirement for the rear windscreen). **(See draft policy pg 43 & 47)**
- Ultra Low Emission's - It was agreed that offering a reduction in the licensing fee for ULE vehicles would send a positive signal, up until the point when all vehicles would have to be ULE. To align with the Council's Climate Change Emergency declaration, the Committee felt that all Waverley licensed vehicles

should be ULE by 2030. A maximum age of 7 years for licensed vehicles would mean that from 2023 all newly licensed vehicles would need to be ULE. **(See draft policy pg 21 & 24)**

The Committee agreed with Officer's recommendations on other matters to include in the draft revised policy for consultation, and RESOLVED:

i. To note the Department for Transport's report on taxi and private hire licensing; the Government's response to the report; and Officer comments on the report in relation to the National Anti-Fraud Network project, English language testing for drivers, matters in relation to disability and accessibility, and employment matters relevant to the 'fit and proper' test; and:

ii. That the following areas of policy be incorporated within the Council's Taxi and Private Hire Policy to be consulted upon:

- a reduced vehicle licence rate (50% of the full rate) for ULE vehicles, until such time as all vehicles are ULE under the vehicle age policy (DfT recommendation).
- a condition requiring licensees to co-operate with appropriate Officers from other licensing areas (DfT recommendation). **(See draft policy pg 35)**
- a requirement for door signs on Private Hire Vehicles (DfT recommendation). **(See draft policy pg 45)**
- a requirement that all drivers subscribe to the DBS update service (DfT recommendation). **(See draft policy pg 14)**
- a Privacy Notice covering Waverley's use of driver and operator information, to comply with Data Protection legislation and GDPR. **(See draft policy pg 8)**
- requirements for Private Hire Operators to: **(See draft policy pg 28)**
 - a. Hold and maintain a register of all staff that have contact with the public, etc.
 - b. Be able to evidence that a basic DBS check is in place for staff listed on their register, and
 - c. Prohibition on use of Passenger Carrying Vehicle (PCV) licensed drivers.
- a vehicle age policy – from 1 April 2020, newly licensed vehicles must be under 3 years old at the date of first registration; from 1 January 2023, licensed vehicles to be no more than 7 years old. **(See draft policy pg 21 & 24)**
- refusal to licence vehicles that have been written-off for insurance purposes, for safety reasons. **(See draft policy pg 21)**

- prohibition on the use of second-hand tyres or tyres that are 10 years old or more, for safety reasons. **(See draft policy pg 42 & 47)**
- Policy on window tinting to be amended to permit Regulatory minimum light transmission for the windscreen (75%) and front side windows (70%); at least 22% light transmission for rear side windows; and no minimum transmission requirement for the rear windscreen. **(See draft policy pg 25, 43 & 47)**

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Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

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

Exploitation

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

Offences involving violence against the person

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

Possession of a weapon

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

Sexual offences

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

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

Dishonesty

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

Drugs

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

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

Discrimination

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

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

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

Using a hand-held device whilst driving

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

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

Annexe 3

Reference/page	Recommendation	Current policy	Revised Policy	L & R Committee Jan 2020 Action	Recommendation
3.1 pg. 8	Cohesive policy document to include; Convictions Policy Fit & Proper Test Licence conditions Vehicle standards	All included	All included		NFA The Standards document is based on the IoL policy on convictions rather than Surrey – it is open to the Committee to consider adopting the IoL document
3.5 pg. 8	Review of policy every 5 years	Waverley Currently does	Statement added on to the front cover of the Policy. 'Waverley Borough Council will review this policy at least every five years or sooner in light of any significant changes to legislation or guidance and consult on any proposed amendments. If we make any changes, we will then re-publish the policy' See Draft policy pg. 1		That Committee Approve the addition and incorporate an annual performance review as part of licensing work programme
3.7 pg. 9	Duration of Licences	Waverley Currently does	NFA		NFA

3.8 pg. 9	Whistleblowing Internal procedures	Waverley Currently does	Addition of reference to WBC's Whistleblowing Policy and web link. See Draft policy pg. 9		That Committee Approve the addition
3.12 pg. 10	Consultation	Waverley Currently does	Expand on consultees to include all recommended		NFA for Committee Officers to include all in consultation
3.14 pg. 11	Changes to licences	Waverley Currently does	NFA		Continue with this practice
4.3 pg. 13	Disclosure and Barring - Enhanced	Waverley Currently does	NFA		NFA
4.5 pg. 13	Disclosure and Barring – Update Service	Currently, all Waverley licensed drivers are subject to enhanced DBS and barred lists checks on application and at renewal of the licence (normally every 3 years)	To include requirement that licence holders must subscribe to update service See Draft policy pg. 14	A requirement that all drivers subscribe to the DBS update service	That Committee Re-Approve the addition
4.11 pg. 13	Maintain Close links to Police and ensure effective information sharing procedures in place	Waverley currently does	NFA		Officers to continue to maintain and expand where possible
4.12 pg. 13	Licensee self reporting - holders to notify relevant matters within 48 hours	Waverley currently requires this to be done within 7 days	To replace 7 days with the recommended 48 hours See Draft policy pg.'s 35, 39, 50,57 & 65		That Committee Approve the change
4.15 pg. 14	Referral to DBS and Police	Waverley has safeguarding procedures in place	NFA		NFA

4.17 pg. 15	Action taken shared with Police	Waverley currently does	NFA		NFA
4.20 pg. 15	Sharing licensing information with other licensing authorities Applicant to disclose if previously refused/revoked/ Suspended	Waverley currently requires applicants to make disclosures at application	NFA		NFA
4.21 pg. 15	Regular communication with neighbouring councils & NR3	Officers have regular contact with other licensing authorities in line with data protection obligations and practices. Waverley has registered with NAFN and is currently working on this NR3 project	Addition of NR3 Draft policy Pg. 8		That Committee Approve the addition
4.26 pg. 16	Multi-agency Safeguarding Hub (MASH)	Waverley Currently does Draft policy 1.9 pg. 54 part mentioned	NFA		NFA
4.29 pg. 17	Recording complaints re Licensees	Waverley takes all complaints seriously – which can be made by a variety of means - email, online form, telephone or letter, and information for passengers is set out on our website.	NFA		NFA

		Complaints are recorded.			
4.31 pg. 17	Passengers able to complain on website	Waverley Currently does	NFA		NFA
4.35 pg. 18	Certificate of Good Conduct	Waverley Currently does Draft policy Pg. 14	NFA		NFA
5.3 pg. 19	Training for Decision Makers	Members of the Licensing Committee are invited to attend licensing training and provided with relevant material. Officers undertake appropriate training and updates as required.	Waverley currently does Members may wish to consider whether more focused or detailed topics are required.		Committee to consider
5.4 pg. 19	General Principles	Waverley Currently does	NFA		NFA
5.6 pg. 20	Regulatory Structure	Waverley discharges functions by Committee and delegation where appropriate and has in place arrangements to deal with serious matters immediately in appropriate circumstances	NFA		NFA
5.12 pg. 21	Fit & Proper Test	Waverley Currently does Draft policy 1.8 Pg. 54	Add 'at any time day or night?'		Committee approve the addition
5.16 pg. 22	Convictions Policy	Waverley already has a clear convictions policy in place, which was instigated and adopted			Committee to consider whether to retain Surrey policy or replace with Institute

		by the Surrey licensing group. An Institute of Licensing (IoL) policy is also available which is intended to provide national guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire trades. Draft policy Annexe 6			of Licensing version
6.3 pg. 23	Refusal to individual on barred list as part of policy	Waverley currently has the wording 'will not normally be' Draft policy pg. 14 & 14.1 pg. 62	Amend to; 'Will not'		That Committee approve the change
6.6 pg. 24	Safeguarding Training	Current mandatory requirement to undertake CSE training Draft policy Pg. 16	NFA		NFA
6.11 pg. 24	'County lines' exploitation	Currently provide material and information to licensees via email re County Lines when given by Police	NFA		NFA
6.15 pg. 25	Language proficiency	Officers have numerous interactions with applicants including a verbal knowledge of the area test and	Application process involves written (application document & forms) and verbal communication which officers consider efficient		NFA

		<p>understanding of the area. If there is a concern regarding the ability of the applicant driver to communicate in English verbally then Officers refer the application to Committee.</p> <p>Currently, there is no requirement as part of Waverley's licensing process to undertake a written test.</p>			
7.2 pg. 26	DBS check for vehicle proprietors / reviewed annually	Not currently carried out	<p>Add requirement for basic DBS to be mandatory for vehicle proprietors where a Driver DBS is not in place.</p> <p>If vehicle owned by a company/partnership DBS done on all directors Draft policy Pg. 22</p>		That Committee Approve the addition
7.9 pg. 27	<p>CCTV</p> <p>All licensing authorities should consult to identify if there are local circumstances which indicate that the installation off CCTV in vehicles would have a</p>	No Requirement		<p>CCTV can be a valuable tool in crime prevention and detection however it can be intrusive with privacy implications, and provision comes at a cost.</p> <p>Councils need to demonstrate a clear justification for the policy and that they have thought carefully about how the policy will operate in practice so as to</p>	Committee to consider the guidance to the Standards and proposed consultation re CCTV

	positive/adverse effect on the safety of users			<p>minimise the potential for interference with the privacy of passengers and drivers.</p> <p>If operators choose to install CCTV in their vehicles now, it is their responsibility to ensure they comply with the legal requirements from the Information Commissioner's Office (ICO).</p> <p>Annexe 2– The Standards sets out information and guidance on assessing the impacts of CCTV</p>	
7.14 pg. 28	Stretched Limousines	Waverley does not have a blanket ban	Add wording to Policy to clarify that we may accept. Draft Policy pg. 20/21		That Committee Approve the addition
8.2 pg. 29	Basic DBS check for PH Operators to be undertaken annually	Waverley Currently does Draft policy Pg. 28	<p>Add requirement If owned by a company/partnership DBS done on all directors. Draft Policy pg. 28</p> <p>Requirement to notify of any change of directors etc. Draft Policy pg. 28</p>		That Committee Approve the addition
8.8 (8.10) pg. 30	Register of all staff that will take bookings/despatch vehicles is kept by Operator	No	Add. Draft Policy pg. 28	<p>Requirements for Private Hire Operators to:</p> <p>a. Hold and maintain a register of all staff that have contact with the public, etc.</p>	That Committee Re-Approve the addition

8.9 pg. 30	Operators to evidence that they have had sight of DBS re staff	No	Add. Draft Policy pg. 28	Requirements for Private Hire Operators to: with the public, etc. b. Be able to evidence that a basic DBS check is in place for staff listed on their register, and	That Committee Re-Approve the addition
8.12 pg. 31	Operators & applicants to provide policy re employing of offenders	No	Add. Draft Policy pg. 28		That Committee Approve the addition
8.13 pg. 31	Record Keeping	A Requirement for the majority	Make mandatory to keep the full list of information for each booking as a minimum. Draft Policy pg. 49		That Committee Approve the addition
8.16 pg. 31	Use of passenger carrying vehicles (PCV) The use of a driver who holds a PCV licence and the use of a public service vehicle(PSV) such as a minibus to undertake a PHV booking should not be permitted as a condition of the PHO licence without consent of	No	Officers feel that the recommendation at 8.16 would cause confusion and will be difficult to enforce. It would be better to stay with the Jan 2020 recommendation. Pg. 28/29	Requirements for Private Hire Operators to: c. Prohibition on use of Passenger Carrying Vehicle (PCV) licensed drivers	That Committee Re-Approve the addition of the Jan 2020

	the booker				
9.2 pg. 33	Authorise Enforcement officers from other authorities	Waverley has arrangements in place with other Surrey authorities and may wish to extend this to other neighbouring county areas		RESOLVED to recommend to Full Council that: i. the Hackney Carriage (Taxi) and Private Hire enforcement functions under the legislation set out in Appendix A of the report be delegated to the Surrey Local Licensing Authorities (as set out in Appendix A), in addition to these functions being retained within the Borough; and, to similarly receive the same delegated Taxi and Private Hire enforcement functions of the Surrey Local Licensing Authorities. And, ii. the responsibility for relevant Taxi and Private Hire licensing legislation in accordance with Part 3 (Responsibility for Functions) of the Council's Constitution, which confirms an existing delegated power to the Head of Environmental & Regulatory Services at part 1.3 of the Council's Scheme of Delegation	NFA

				(authorisation to enforce all relevant Hackney Carriage (Taxi) and Private Hire licensing legislation), be extended to include the authorisation of officers of other Surrey authorities participating in a Joint Warranting Scheme.	
9.6 pg. 34	Suspension and revocation of driver licences - including on basis of Immigration Penalty/Conviction	Guidance for licensing authorities to prevent illegal working in the taxi and private hire vehicle sector issues issued by the Home Office to be reviewed and action taken as appropriate			Committee to note and officers to undertake review of Home Office guidance and existing licences where appropriate



Hackney Carriage and Private Hire Licensing
Policy and Application Process



Effect Period

01 APRIL 2020 to 31 MARCH 2025

Waverley Borough Council will review this policy at least every five years or sooner in light of any significant changes to legislation or guidance and consult on any proposed amendments. If we make any changes, we will then re-publish the policy.

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PART 1

INTRODUCTION AND GENERAL INFORMATION

Hackney carriages (often called taxis) and private hire vehicles, and their drivers and private hire operators, must hold the appropriate licences to work. Waverley Borough Council licenses these activities for its own area. This licensing is covered principally by two acts of parliament and licences have been the norm for hackney carriages, which are now usually called taxis, since early in the 19th century.

There is a great deal of legal history to the licensing of taxis. The current licensing system uses mainly the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The 1976 Act introduced private hire licensing and amended and updated parts of the 1847 Act. Other legislation also comes into play from time to time in licensing these activities, for example, the Transport Acts, the Human Rights Act 1998, Disability Discrimination Act 1995, to name a few.

This policy gives information about hackney carriage (taxi) and private hire licensing. The policies for licensing vehicles, drivers and private hire operators in the Waverley area have been agreed by Waverley Borough Council. The policies guide those within the Council responsible for taxi and private hire licensing and

enforcement in the discharge of their functions, and guide applicants/licensees. These policies and the conditions of licences are individually set by Waverley to reflect circumstances in the Borough and may be different from the policies of other district or borough councils in the surrounding area.

Sometimes extra conditions may be added to licences where there are specific reasons for them (on disabled adapted vehicles, seating layout, drivers' medical conditions, etc.). Personal or vehicle-specific conditions will be discussed with the person concerned before being added to the licence. These are not covered in this booklet.

Licences for drivers, vehicles and private hire operators may be issued provided all of the relevant criteria laid down by the Council have been met. Each licence will be subject to conditions, which the licence holder must understand and abide by, unless a special exemption has been formally issued.

Every vehicle and every driver must hold separate licences from the Council.

The Council's licensing section may be contacted by telephone on 01483 523219 or by email taxi@waverley.gov.uk.

Passengers have the right to know what fares may be charged for their journey.

Private Hire Vehicle are managed by private hire operators making an agreement with hirers at the time of booking.

For taxis, the fare chart (the tariff) shows the way that fares are assessed, giving the maximum amount that may be charged for a journey. Passengers are entitled to see the tariff on display in any taxi and the taxi meter will always be visible to the passenger.

The driver's details (photo card badge and licence number) must be worn by the driver or prominently displayed inside the vehicle for the passenger to see. Passengers are advised to make a note of them, and the vehicle licence number.

PART 2

Objective;

The principal purpose of Hackney Carriage and Private Hire licensing is to protect the public and promote public safety. The aim of this policy is to provide a fair, open and transparent framework to ensure that hackney carriage and private hire services in Waverley Borough continuously demonstrate that they meet or exceed the standards set by the Council.

In exercising the principles of protecting the public the Council will adopt and carry out its Hackney Carriage and Private Hire licensing functions with a view to promoting the following:

- The protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder,
- To promote public confidence in the hackney carriage and private hire services through encouraging a professional hackney carriage and private hire trade,
- The safety and health of the public and drivers,
- Vehicle safety, comfort and access,

Following a number of reviews of failures in the licensing process in areas such as Rotherham, South Ribble and Oxford, the subsequent publication of the Task and Finish Group Report, government response and accompanying Statutory Guidance all highlighted the importance, amongst other things, of having effective regulatory and enforcement functions in preventing and disrupting Child Sexual Exploitation. The Taxi licensing function has a key role in this

PART 3

What is the difference between a Hackney Carriage and a Private Hire vehicle?

Hackney carriages (commonly known as 'taxis')

Hackney carriages are public transport vehicles which are licensed to 'ply for hire'.

They can:

- carry passengers for hire or reward
- be hailed by prospective passengers in the street
- park on a rank to await the approach of passengers

Hackney carriage vehicles can be found at the ranks and they can be hailed in the street. These vehicles have a roof light with the word TAXI on them. They have a blue/white plate affixed to the rear and a smaller version affixed to the windscreen which carry details of the expiry date, license number and vehicle registration.

Private hire vehicles (commonly known as 'minicabs')

Private hire vehicles (or minicabs) are public transport vehicles. However, a private hire vehicle cannot ply for hire or stand in a rank. It must be pre-booked with a private hire operator e.g. through the operator, usually by telephone.

They have a red/white plate affixed to the rear and a smaller version affixed to the windscreen which carry details of the expiry date, licence number and vehicle registration.

Both taxis and private hire vehicles have a maximum of eight passenger seats and must be driven by a licensed driver from the same licensing authority as the vehicle.

Waverley Borough Council issues licences for both Hackney Carriage and Private Hire Vehicles.

The table below highlights some of the key differences between the two types of vehicle

	Hackney Carriage Vehicle	Private Hire Vehicle
Can be hailed in the street	✓	✗
Can stand and be hired at a taxi rank	✓	✗
Can be pre-booked	✓	✓
Must display a fare meter in the vehicle	✓	✗
Must display a 'taxi' top light on the vehicle	✓	✗
Must work for a Private Hire Operator	✗	✓
Must display signage regarding Pre-Booked Journeys Only	✗	✓

PART 4

GENERAL PRINCIPLES

1. Information sharing

Information which is given to or obtained by the Council in processing a vehicle/driver/operator licence or whilst carrying out the licensing function, may be shared with others. This may include the Police, Immigration, DEFRA (air quality data), DBS, DVLA, DWP, HRMC, Home Office, other Councils, NAFAN and others to prevent and detect crime or with other lawful authority. All applicants for licences will sign a declaration which includes acceptance of information sharing.

2. The National Register of Revocations and Refusals

The Council will check all new and renewal applications against the national register.

If a licence holder has been refused/revoked by another authority, this will not debar an applicant from holding a licence, however the Council will give weight to the decision made by that authority in considering the application. Additionally, if an applicant has had another licence refused/revoked which is not declared to the Council, this will raise concerns about the honesty and integrity of the applicant and is likely to lead to refusal.

The Council will record all decisions to refuse and revoke a driver's licence on the National Register, and will provide details of the reasons for each decision to another licensing authority following receipt of the necessary data sharing request.

3. Joint Warranting

The Council have delegated the Taxi and Private Hire enforcement functions under the legislation, set out below at 2a, to the Surrey local licensing authorities (also set out in 2a), in addition to retaining those functions within the Borough and to similarly receive the delegated Taxi and Private Hire enforcement functions of those local authorities. This enables improved enforcement of the taxi and private hire trade across the County and improves safety within the licensed hackney carriage and private hire vehicle service operating in Surrey

3a.

Functions delegated to the Surrey Local Licensing Authorities.

Local Government (Miscellaneous Provisions) Act 1976

- Section 53(3)(a): Driver to produce his licence for inspection
- Section 58: Return of identification plate or disc on revocation

- Section 60: to suspend and revoke vehicle licences
- Section 61: to suspend and revoke drivers' licences
- Section 68: fitness of private hire vehicles
- Section 73: obstruction of authorised officer

Town and Police Clauses Act 1847

- Section 45: prosecution for plying for hire without a licence

Road Traffic Act 1988

- Section 143: no insurance

The Surrey Local Authorities named below have delegated (or will delegate) the same functions to Waverley Borough Council. Those authorities have also retained the ability to exercise these functions.

The Surrey Local Authorities –

- Elmbridge Borough Council
- Epsom and Ewell Borough Council
- Guildford Borough Council
- Mole Valley District Council
- Reigate and Banstead Borough Council
- Runnymede Borough Council
- Spelthorne Borough Council
- Surrey Heath Borough Council
- Tandridge District Council
- Woking Borough Council

4. Whistleblowing

The purpose of this Policy is to protect the wider public using taxis and PHVs. However, it is in the application of these policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. It is therefore recommended that any staff follow the Council's Whistleblowing procedures to raise concerns so that these can be dealt with openly and fairly.

Members of the licensed trade are also encouraged to report concerns relating to public safety, and will not face licensing action for bringing concerns to the authorities' attention.

Further details including Waverley's Policy and Procedure regarding Whistleblowing can be found at;

https://www.waverley.gov.uk/downloads/download/2581/confidential_reporting_-_whistleblowing_-_policy_and_procedure

The failure of a member of the trade to report incidents which they are aware of may however call into question their suitability to hold a licence.

5. Fees are Payable for the Various Elements of All Licences

The Council usually sets its own fees and charges. This includes the fees for licences and any associated administration. The Council must advertise certain licence fees, as required by the 1976 Act. Representations may be made to the advertisement of the proposed fees, and these must then be considered by the Licensing and Regulatory Committee and Council. Licensees are notified of changes to fees once they have been confirmed.

Waverley has a scale of fees for all of the following:

- ❑ all driver licences
- ❑ all vehicle licences
- ❑ 6-monthly vehicle tests for 5-year-old vehicles (as a second instalment)
- ❑ Surrender & replacement of licence to a new vehicle
- ❑ missed appointments at the test centre
- ❑ retests if a vehicle fails its test
- ❑ private hire operator licences
- ❑ Disclosure and Barring Service application (collected by the Council for the DBS)
- ❑ Vehicle plate bracket etc.
- ❑ Knowledge test and failure to attend for knowledge test

Other costs for applicants, paid direct, are:

- ❑ the medical fee, payable to the applicant's own GP surgery
- ❑ Blue Lamp Trust(or equivalent AA DriveTech) test fee, paid to the Blue Lamp Trust or AA on booking the test
- ❑ Fitting and maintenance of the taximeter if applicable
- ❑ The taxi roof sign
- ❑ Barnados CSE training online

6. Hackney Carriage Fares (Tariff)

The Hackney Carriage fares are reviewed by the Licensing (General Purposes) Sub-Committee, usually upon request from licensees for an increase or other amendment. The process involves all licensees having the opportunity to comment on the proposed changes (a consultation with them) and a report to the Committee including comments made and a comparison with neighbouring councils' fares. Any increase approved by the Committee is then advertised in

the public notices section of the local press. Any representations made are brought back to the Committee to consider. The finally agreed increase is then put into place on a set date. The current fares approved are shown in every taxi and in some private hire vehicles if they have a taxi meter allied to the same fare chart or any other set tariff.

7. Byelaws for Hackney Carriages

Byelaws for hackney carriages were confirmed in 1980. The main body of the byelaws is set out at Annexe 8. Some of the byelaws are also set out in the 'Important Notes' attached to hackney carriage licences.

8. Hackney Carriage Stands (Taxi Ranks)

Taxi ranks are provided in Waverley's main population areas, and can be located as shown below. Any licensed Waverley taxi may use any of these ranks (also known as stands). In addition, Farnham, Godalming and Haslemere stations provide ranks on their own land and will, for a set fee, give a permit to licensed vehicles to work from these ranks on the basis of one permit per vehicle. Waverley licensed vehicles may never, in any circumstances, use ranks outside the Waverley area, and vehicles licensed by other councils likewise may never use Waverley ranks. Waverley's own ranks can be found at;

- ❑ Village Way, Cranleigh
- ❑ High Street/Bank Buildings Road West, Cranleigh (by the war memorial)
- ❑ West Street, Farnham
- ❑ Castle Street Farnham
- ❑ Crown Court Car Park, Godalming
- ❑ High Street, Haslemere (by Georgian House Hotel, as part of bus stop lay-by)
- ❑ Bridge Street, Godalming

PART 5

LICENCES FOR DRIVERS

Hackney Carriage and Private Hire Drivers - Waverley's Driver Licensing Policy

Driver's licences will be issued for **3 years as standard** or for lesser period agreed by the Council for exceptional circumstances.

People wishing to drive licensed hackney carriages (taxis) or private hire vehicles must themselves be licensed by the Council. Applicants for drivers' licences must undergo background checks which are designed to ensure the applicant is **'a fit and proper person'** to hold a licence, as stated in legislation. The fitness and propriety of a driver will be monitored and assessed throughout the period that the licence is held. The Council's primary interest is to ensure the safety of the public.

Background driver checks include;

- ❑ a criminal records check through the Disclosure and Barring Service (DBS) and/or certificate of good conduct if the applicant has lived abroad during the past five years
- ❑ Previous convictions - your application may be referred to the Council's Licensing (General Purposes) Sub-Committee for determination if you have previous convictions. Please contact the Licensing Office if you have any doubt about the relevance of convictions before applying for a licence.
- ❑ a medical to Group 2 standards, applied by the DVLA with your own GP (at your own expense)
- ❑ Blue Lamp Trust(or equivalent AA DriveTech) pass certificate for hackney carriage and private hire drivers,
- ❑ **Wheelchair Accessible training for licensed drivers of designated wheelchair accessible vehicles**
- ❑ An online check on the DVLA driving licence
- ❑ **Right to work in the UK check**
- ❑ CSE Training
- ❑ a knowledge test for journeys

1. Disclosure and Barring Service (DBS) check:

This must be filled in and the fee paid at first appointment, with supporting documents. This is explained to applicants, and they are reminded about what papers they will need to supply/show. [Please note that the DBS check is at the 'enhanced' level including the children & adults barred list check, which will disclose all criminal records.]

INFORMATION INCLUDED IN CRIMINAL RECORD CHECKS	
Information included	Type of check

	Basic	Standard DBS	Enhanced DBS	Enhanced DBS (Including Barred list check)
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions *1	Yes	Yes	Yes	Yes
Spent convictions *2	No	Yes	Yes	Yes
Spent cautions *1+2	No	No	Yes	Yes
Additional police *3 Information ³	No	No	Yes	Yes
Barred list(s) *4 Information	No	No	No	Yes

Please note:

**1. Cautions include reprimands and warnings, but not fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.*

**2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not disclosed on any level of certificate. Further guidance is available at <https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>.*

**3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.*

**4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).*

Subsequent to submitting an application for an enhanced DBS disclosure, applicants must subscribe and maintain to the DBS online update service.

Any Taxi and Private Hire drivers already licensed by Waverley Borough Council will also need to sign up to the DBS online update service at the time their next DBS application for renewal is submitted. It is not anticipated that further DBS renewal paper applications will be submitted on their behalf beyond March 2023,

Drivers will be required to provide the DBS certificate, if a driver is unable to do this they are at risk of suspension or revocation.

All licensed drivers must subscribe to the DBS update service and are required to evidence continuous registration with the DBS update service. Failure to have continuous registration may lead to suspension/revocation of the licence.

Applicants are advised that the Council may take all convictions and cautions, including those 'spent' under the Rehabilitation of Offenders legislation, into account for this type of work.

In the interests of public safety, Waverley will not issue a licence to any individual that appears on either barred list.

For new applicants without an existing DBS subscription a DBS form must be completed in black ink and the Licensing Administrator will need to see documentation, so that the Council can verify the information supplied; for example

- Passport (if you hold one)
- Driving Licence
- Marriage certificate (if married)
- Printed National Insurance number (on a P45/P60)
- Proof of address - (utility bills or statements from bank, for instance, not more than three months old)

The Licensing Administrator can advise on documentation required.

The Council's policy in respect of criminal convictions (which also explains how cautions will be considered) is set out at Annexe 6. When the personal information on the form has been completed, the Licensing Administrator will take details from the documents provided to complete and send off the DBS request. The application cannot proceed until the DBS Disclosure is issued. A copy is sent direct to the applicant. This can take several weeks. When the DBS Disclosure is received, the applicant should call the licensing office (01483 523219) to make an appointment for interview. The Council will hold a DBS disclosure for three months. After this and if no contact has been made by the applicant, the disclosure will be destroyed. Once a driver is licensed, a DBS check is required every three years.

2. A Certificate of Good Conduct

For people who have not lived in the UK for all of the past 5 years). It will be necessary to contact the relevant home/resident country's Consulate/Embassy in Britain to obtain a certificate of good conduct. The Licensing Administrator may be able to offer a contact number, if required.

3. Medical Report

A Medical report to Group 2 standard, will be completed by the applicant's own General Practitioner surgery using the Waverley form. The doctor/surgery will make its own charge for the medical. Applicants are advised to check with the Council (tel: 01483 523219) before proceeding with the medical. The Council will provide the Group 2 form to take to the GP. **Unless the result of the medical is completely satisfactory**, it may have to be referred to the Council's consultant doctor for a second opinion. **The consultant doctor's fee has to be paid by the licence applicant.**

The Licensing section must receive this report within 3 months of the Doctor signing the report.

Unless there are special circumstances in an individual case, medicals for licensed drivers are required every 3 years,(prior to the renewal of their 3 year licence),up to 65 years of age after which they are required annually. If any serious illness occurs, an extra medical may be required, on the Council's Doctor's advice.

4. Blue Lamp Trust

Waverley believes that the general role and responsibilities of a hackney carriage and/or private hire driver demands high standards in driving and customer service. It also believes that such competencies can impact on both public safety, comfort and passenger experience; particularly for the vulnerable, those with disabilities and other medical conditions. Paid/professional drivers therefore require relevant knowledge, skills and experience to safely and effectively discharge their role and responsibilities to their passengers and others.

For these reasons Waverley requires that all new driver applicants provide a Blue Lamp Trust pass certificate or AA DriveTech equivalent). For hackney carriage/private hire drivers. No new licence application can be considered without this pass certificate. The fee will be advised by the relevant assessment centre. The certificate will be produced to the Council to show that the driver has undertaken and passed the Blue Lamp Trust certificate of competence for hackney carriage and private hire vehicles or AA Drive Tech equivalent.

5. Wheelchair accessible training

If you intend to drive a wheelchair accessible vehicle you would have to pass an extra part of the test specific to using a wheelchair accessible vehicle.

Applicants can book Blue Lamp Trust on-line at www.bluelamtrust.org.uk, or telephone 0300 777 0157.

AA Drive TECH on-line at tellmemore@AAdrivetech.com on 0345 373 1360

6. DVLA Check - New applicants and existing licensees, on

renewal, are required to **undertake a DVLA online check with officers or to go online to the DVLA driver licence check page and request a code.**

<https://www.gov.uk/view-driving-licence>

Licensees will be required to share the code with officers in order that they can check their DVLA licence online.

Officers may request a further check/report at any time if it is felt it is required.

Any refusal to grant authorisation for such a check/report will lead to refusal to grant/renew or suspension/revocation of a Hackney Carriage and/or Private Hire driver's licence.

Valid DVLA driving licence - a full driving licence, with the current home address, held for a minimum of 2 years (No photocopies are accepted).

This will be a Department of Transport or equivalent EU driving licence. You may be required to convert your (foreign) licence to a DVLA licence.

7. Right to Remain and work in the United Kingdom

Applicants for the Grant of a Licence will be required to produce documentary evidence of a right to remain and work in the UK. If an applicant has an expiry date on their right to work, any licence that may be granted will not be valid past the said expiry date unless further evidence of a right to remain or work is produced. If there is a restriction regarding the number of hours allowed to work then if a licence is granted a condition will be added to reflect said restriction.

8. Mandatory CSE and Safeguarding Training

Mandatory CSE and safeguarding training for taxi and private hire drivers.

The training would include how to spot signs of child sexual exploitation and how to report concerns of children or vulnerable persons at risk using agreed Surrey processes. There will be a multiple-choice assessment to ensure understanding of the subject matter.

All new drivers are required to pass the CSE training in advance of first being licenced.

9. Photograph

Four passport size photos (for the driver's badge) which are deemed acceptable by officers or attend offices for a digital photograph to be taken by officers.

10. Knowledge Test

The applicant will have a meeting/interview with the officers to clarify and advise on how a licensed driver should act and what the licences involve. The applicant will be asked to explain what they understand about driving a taxi or a private hire vehicle and general questions regarding Waverley's Hackney Carriage/Private Hire Policy. The applicant will take and have to pass a written and/or verbal knowledge

test of the Waverley area, its boundaries and the town where you intend to work. Questions will cover landmarks, places of interest and journeys. You will be asked to clearly and understandably describe local journeys and also journeys to a wider area (other towns, ports and airports for instance).

The knowledge test is more detailed for Hackney Carriage (taxi) applicants, who must be able to carry their passengers via the shortest route to their destination.

You will be told at the end of the interview whether the licence is to be granted, and if not, what you can do next.

If the applicant fails the initial knowledge test they can arrange a further test for which an additional fee will be charged.

Driver licence Applications;

New Applicants;

New applicants should make an appointment with the Licensing Service by calling 01483 523219 or by emailing taxi@waverley.gov.uk

New Applicants are advised to read and understand this policy.

Applicants must bring identification documents to the first appointment so that a Right to Work in the UK Criminal Records check through the Disclosure and Barring Service (DBS) can be started (see above).

At the first appointment applicants will be advised of/ documents, certificates, reports, etc. (1 to 9 page ??) which must be completed, or supplied for a new application to be considered.

Once the applicant has completed 1 to 9 on page ??, the relevant documentation has been submitted and the application fee has been paid, officers will make an appointment for the applicant to undergo a knowledge test (see 10 on page).

NOTE:

Applicants with criminal or certain other records may also have to be interviewed by the appropriate Licensing Sub-Committee before a decision is made on the application. When there is sufficient reason, it is the Council's right to refuse the grant of a licence. In such cases, the applicant has the right to appeal to the magistrates' court, where the application may be considered afresh

Please note that any application may be referred to the Council's Licensing (General Purposes) Sub-Committee for consideration. This will be explained at

interview, if needed. See also Part 8 of this policy which deals with the Council and its Committees.

How long do I have to complete my application?

It can take up to 12 weeks from submitting your application to being granted a licence providing there are no delays with your DBS form, you do not have to attend a Committee hearing and you pass the knowledge test first time. However your application will remain open providing there is regular activity happening.

Your application will be cancelled and destroyed approximately 6 months from the date of submission if within the last 3 months you have not been in contact with Taxi Licensing, not completed the relevant modules or passed the knowledge test. This is because your documentation will be out of date or expired.

A refund of outstanding fees is only available upon written request. Documents provided during the application process will remain valid for 6 months during initial application otherwise you will need to reapply.

Renewal Applications

Applicants wishing to renew their drivers licence will need to complete and sign the application and make payment.

The applicant must also submit a satisfactory medical report to Group 2 standard.

Officers will conduct with the applicant a check of the applicants DBS via the online service and a DVLA online check.

Once A Licence Has Been Granted it can only be renewed while it is still **'live'**. Renewal invitations may be sent by email about 6 weeks before expiry to those who have agreed to receive correspondence by email. The responsibility to ensure that a licence is renewed rests solely with the licensee. Whilst the Council may choose to remind existing licensees that their licence is about to expire and needs renewing, there is no duty on the Council to do so. The licence-holder must apply at least 10 days prior to the expiry of the licence. It is important to allow time for the renewal to be processed. Last minute renewal applications may result in the licensee being unable to work whilst the paperwork is processed and the new licence badge issued.

If there is any difficulty with this, licensees should contact the Licensing Administrator to explain the situation, and it may be that a solution can be agreed.

Important Note: If a licence has expired, even by one day, then it is no longer valid, and therefore there is nothing to renew. The applicant may

have to start the full process from the beginning, and cannot work as a licensed driver while this process takes place, and there are costs for the 'start again' process. Therefore it is important to apply for renewal while the licence is still live, in order to avoid having to undergo the full 'new applicant' process as above for any further licence to be considered. There is also a higher cost to the 'start-again' process.

Hand in or return the renewal application and supporting paperwork to the Licensing Section, Waverley Borough Council, Council Offices, The Burys, Godalming, Surrey, GU7 1HR. If you have any questions, please contact the Licensing Section on **01483 523219**. Please use this number to make any appointment needed, when you are ready.

Conditions applied to drivers' licences: These are shown at Annexe 1 for hackney carriage/private hire driver licences and at Annexe 2 for private hire driver licences. Specific conditions may be applied in certain special cases. These will be discussed and explained to the individual licensee as required.

Application Fee depending on licence (subject to increase). Methods of payment are by Credit/Debit card or cheques payable to Waverley Borough Council – (NO CASH is accepted at Council Offices). Applications paid for by cheque will not be processed until the cheque has been cleared by the bank. This will take approximately 12 working days.

PLEASE NOTE NO CASH IS ACCEPTED AT COUNCIL OFFICES

PART 6

LICENCES FOR VEHICLES

Hackney Carriage (Taxi) and Private Hire Vehicle policy

Taxis (hackney carriages) and Private Hire Vehicles

Taxis (hackney carriages) are operated by people who run them as a business and they may make their own business decisions within the licences granted by the Council. Taxis may charge the fares shown on the valid Waverley-approved fare chart as a maximum, but the proprietor of the vehicle or the driver, depending on their own arrangements, can choose to make lower charges. The fitted taxi meter (the meter) is tested for accuracy at each Council inspection. The driver must never charge more than the fares shown on the valid chart. All Waverley licensed vehicles must hold 'hire and reward' insurance, and they may be driven only by a Waverley licensed driver. Most vehicle proprietors set a fixed fee for longer journeys, such as to airports and ports for example.

Private hire vehicles (PHVs) are booked and operated under a private hire operator licence. The operator may set his/her own fares for journeys, and the car does not need to have a meter fitted. If a meter is fitted in a private hire vehicle, the current fare/tariff chart used for this meter must be submitted in advance to the Council, and the meter will be tested as part of the Council's vehicle inspection.

Both taxis and PHVs may be licensed if they are suitable, fit for purpose and within the Council's policy for licensing. Any changes/modifications to the manufacturer's original construction of the vehicle including modification, adaption, fixtures, fittings, stickers, decals or decorative painting must be applied for and authorised by the Council. Tariff meters, Waverley Licensed plates, and correct taxi roof signs are exempt and do not apply

Hackney carriage licences are issued to various types of vehicles, purpose built, saloon and some MPV style vehicles and occasionally 4x4 vehicles if appropriate, provided that they are fit for purpose.

Private hire vehicle licences are issued for saloon, some MPV style vehicles and occasionally 4x4 vehicles if appropriate. Private hire vehicles must not look like taxis, therefore may not be purpose-built taxi style nor may they have a roof sign.

Limousines- Should an application be made to licence a stretch limousine of less than 9 passenger seats and right hand drive, this will be referred to the appropriate Licensing Committee in the first instance, prior to arranging any other aspect of the licence, such as the vehicle test. Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be

licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

A vehicle may be licensed provided

- it is fit for the purpose (it must pass the licence vehicle condition test),
- it is suitable for the purpose (see licence conditions overleaf and consult the Licensing Office for advice before you purchase any vehicle)

Insurance write Offs

From 01 April 2020 Waverley will not accept any new applications for vehicles that have been written off by an insurance company.

Age of the vehicle

From 01 April 2020 a vehicle submitted, for a new vehicle application for licence must be under 3 years old from date of first registration. Once licensed a vehicle may continue to be licensed up to the 7th anniversary of first registration. Once any vehicle reaches 5 years of age, it becomes subject to 6-monthly tests.

Existing licensed vehicles that are over 7 year old, or that will become over 7 years old can continue to be licensed until the 31 December 2022. From 01 Jan 2023 a vehicle will not be licensed if it is 7 years old or more from date of first registration.

From 01 January 2023 a vehicle submitted, for a new application, to licence must be an Ultra-Low Emission Vehicles (ULEV), as defined by the Vehicle Certification Agency.

<https://www.vehicle-certification-agency.gov.uk/fcb/ulev.asp>

From 01 January 2030 Waverley will only accept new applications and renewals for vehicles which are ULEV.

Wheelchair accessible and speciality vehicles can apply for exemption from the standard age policy on a case by case basis.

What happens next?

Applicants for a Vehicle licence are subject to a 'fit and proper' test, so will need to have a criminal record check (Basic DBS Disclosure), unless they hold a Waverley Hackney Carriage/Private Hire Driver or a Private Hire Operators licence, in which case a check has already been completed.

The applicant will submit an application form and payment to the Council (Credit/Debit Card or Cheque payable to Waverley Borough Council – NO CASH is accepted at Council Offices) so that a vehicle test can be arranged. Applications paid for by cheque will not be processed until the cheque has been cleared by the bank. This will take approximately 12 working days.

A licence is issued for a vehicle after it has taken and passed a Ministry of Transport vehicle test (MOT) within 30 days of the renewal date, the Council test (vehicle external and internal suitability test) and where required a metered mile test, which shows that the vehicle is fit for the purpose intended. No licence is issued unless it is covered by full hire and reward insurance, which will give continuous cover while the licence is in force. A licensed vehicle may be driven only by a driver who holds the right matching licence. Insurance is not accepted if it includes an extra person who does not hold a licence from Waverley to drive the vehicle. The applicant for the licence will produce

- Firstly a fully completed application form, MOT certificate and payment, (and the licensing office will arrange a time and day for the vehicle test -)
- Before any licence or licence plate is issued, sight of test pass paper
- Evidence of current hire and reward insurance
- Sight of the registration document (or bill of sale, if newly bought).

Most of the information detailed below is also contained in the vehicle licence as conditions of the licence or as legislation and other information. The following is a quick check of what is expected for a licensed taxi:

- both the vehicle and the driver should be presentable and they must carry evidence of the licences (plate, window sticker, driver badge) in a visible position as defined in the licence conditions, unless they carry an authority to do otherwise;
- the vehicle licence number plate (white/blue for a taxi, red/white for a private hire vehicle) is affixed to the back exterior of the vehicle and a window sticker must be displayed in the front window;
- for taxis and PHVs with a meter, the vehicle licence number is repeated on the fare chart, and the fare chart will be clearly visible to the passengers in the vehicle;
- a taxi will carry an illuminated 'taxi' roof sign;
- a private hire vehicle will not look like a taxi, nor will it have any roof sign;
- the driver of the vehicle will wear on the lapel or on a neck cord the licence badge issued by the Council, which includes his/her photograph and driver licence number. A cord is provided for this purpose, and a clip is available for those who prefer it. This licence badge must be visible to passengers.

Applying for or renewing a vehicle licence

To renew an application for a vehicle licence for a taxi or a private hire vehicle, the licence must still be 'live'. A lapsed licence of any sort may not be renewed as it will have ceased to exist. A car with a lapsed or out-of-date licence may not be used for taxi or private hire work.

The Council has set a policy as to what is required in a licensed vehicle and it is the duty of the licence holder to ensure that the vehicle is well looked after, clean and properly insured. The Council's officers are entitled to see evidence of documents as required.

Policy Requirements for the vehicle licence:

General

1. A fully completed application form must be submitted with payment of the appropriate licence fee
2. Evidence of ownership (registration document, or invoice if newly purchased, followed by the updated log book within 6 - 8 weeks)
3. Current valid MOT certificate
4. Appropriate and continuing 'Hire and Reward' type insurance for the vehicle
5. The vehicle must pass the Council's vehicle inspection test
6. All licensed vehicles must carry a first aid kit, indelibly identified to the licence plate of the vehicle, which complies with the suggested list of contents included within the Approved Code of Practice and Guidance: First Aid at Work – The Health and Safety (First-Aid) Regulation 1981 L74.
7. All licensed vehicles must carry a multi-purpose dry powder or foam (AFFF) spray extinguisher conforming to British Standard EN3, minimum weight 1kg, indelibly identified to the licence plate of the vehicle.
8. Waverley Borough Council hackney carriage plates are white/blue and displayed on the rear exterior of the vehicle, issued annually unless there are special circumstances
9. Waverley Borough Council Private Hire vehicle plates are white/red and displayed on the rear exterior of the vehicle, issued annually, unless there are special circumstances
10. All licensed vehicles, without exception, must display the internal licence (front window) sticker

11. Licensed vehicles shall have not less than four passenger doors
12. Convertible vehicles shall not be licensed, but those with not more than 50% sunroof area are permitted
13. The minimum engine capacity shall be 1575 cc. Applications to licence a hybrid/electric vehicle, or any other type of vehicle with an engine capacity of less than 1575cc shall be made to the Licensing Manager in writing. Officers shall have discretion to consider the grant of a licence, provided they are satisfied with the efficiency, size, design and safety standards of the vehicle
14. Seating Capacity is determined by Road Traffic Regulations and further defined by the seatbelt provision in the vehicle offered for licensing.
15. As from 01 April 2020 a vehicle submitted, for a new application, to licence will be under 3 years old. Once licensed a vehicle may continue to be licensed up to the 7th anniversary of first registration. Once any vehicle reaches 5 years of age, it becomes subject to 6-monthly tests.

From 01 January 2023 a vehicle submitted, for a new application, to licence must be an Ultra-Low Emission Vehicles (ULEV).

From 01 January 2030 all vehicles will be Ultra Low Emission Vehicles (ULEV).
16. Any replacement vehicle must meet the Council's policy.
17. Mechanical Inspections - Licences are annual and an MOT is required each year (except see 19 below)
18. Interior & exterior inspections – vehicle interior & exterior inspections will be carried out on renewal inspections and may also be carried out on an ad hoc basis by council officers.
19. When a vehicle reaches five (5) years old, it shall be required to undergo an interim vehicle test (MOT & inspection by officers) 6 months after licence renewal. Vehicles in this age bracket will be issued with six-month duration plates.
20. In the event of a space saver tyre, run flat tyre (when punctured) or puncture repair kit being used it is only to complete a fare and must comply precisely with the manufacturers' recommendations. Any such tyre should be replaced before taking another fare to ensure passenger safety. All other licensed vehicles must carry a spare wheel matching those fitted to the vehicle, and an appropriate means of changing the wheel.

21. No taxi or private hire vehicle may be dual-licensed (i.e. it shall not be accepted for licence by Waverley if it is licensed by any other licensing authority).
22. No taxi or private hire vehicle may be of the same colour of a neighbouring council's set livery (colour) for their Hackney Carriages.

Vehicle Testing

There is considerable variation between local licensing authorities on vehicle testing, including the related question of age limits. The following can be regarded as best practice:

23. A meter must be fitted, tested and illuminated - taxis and specified private hire vehicles only
24. The Council may charge reasonable fees to cover the issue of licences and require the production of the licence and any other documents at any reasonable time.
25. The Licensing Officer is authorised to refuse applications to license any left-hand-drive vehicles. Any dispute may be brought to the appropriate Licensing Committee in the first instance. There may also be an option for further appeal to the Courts against the Council's decision in some cases.
26. **Tinted Windows.** All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 and in particular the requirements relating to tinted windows, which states that as a minimum:

The light transmitted through the windscreen must be at least 75% and the front side windows must allow at least 70% of light to be transmitted through them.

Waverley also requires that vehicles will only be considered suitable where all rear windows allow at least 22% of light to be transmitted through them.

Tinted films applied to the vehicle windows (after manufacture) are not permitted

Taxis (hackney carriages) only

27. The TAXI roof sign must be displayed on the roof (taxis only)

Private Hire Vehicles only

28. Private Hire vehicles shall be of a suitable type, size and design. They should be safe and comfortable and must not appear in any way to look like a hackney carriage vehicle.

29. Private hire vehicles may carry no signs, illuminated or otherwise, unless approved by the Council (see the conditions to the private hire vehicle licence) or as stated in 30 below.
30. A sign of a style approved by the Council bearing the words "Licensed Private Hire Vehicle Waverley Borough Council" shall be displayed on each front door of the vehicle. The sign shall also bear the words "This Vehicle must be pre-booked".
31. A meter need not be fitted in a private hire vehicle, but if a meter is fitted, it must be tested with the private hire operator's scale of charges, which must be supplied to the licensing authority with the licence application (see also 26 above).
32. Private Hire Vehicles may be saloon cars, multi-purpose vehicles (MPVs), some 4x4 vehicles such as Range Rover and similar high base vehicles. Applicants are advised to refer to the Licensing Office before committing to purchase any vehicle for licensing purposes, to ensure that no unnecessary outlay is made on a car which may not be suitable for licensing as a taxi or private hire vehicle.
33. The Council may, following written application, exempt the need for an operator to display the licence plate on the rear of the vehicle or the need for the driver to wear their personal badge. Where this exemption is granted the vehicle operator shall be issued with a letter of exemption which shall be retained with the vehicle plate inside the vehicle at all times. The driver must also have their badge on their person although not required to have it displayed. NOTE: The internal licence (front window) sticker must be displayed at all times.

Conditions applied to vehicle licences are shown at Annexe 3 (hackney carriage licence) and Annexe 4 (private hire licence). Vehicle specific conditions may be applied in certain special cases. These will be discussed and explained to the individual licensee as required.

PART 7

LICENCES FOR PRIVATE HIRE OPERATORS

5. Private Hire Operators' licences

A private hire operator (PHO) is a person, partnership or company licensed to take bookings and send licensed vehicles and drivers to undertake the pre-booked work

Any person wishing to run a business taking bookings for one or more private hire vehicles must hold a Waverley Private Hire Operator (PHO) licence. The vehicles and the drivers themselves must also be licensed separately by Waverley.

A private hire vehicle may only be dispatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

All three licences:

- private hire operator's licence;
- private hire driver's licence; and
- private hire vehicle licence;

must be issued by the same Licensing Authority - 'The Trinity of Licences'

The Operator must have an office within the Waverley boundaries. Any existing Operators base that has previously been granted (pre Oct 2019) that is outside the boundary are afforded granted grandfather rights. However any future change of office must be within the Waverley boundaries.

Applications.

The Council has a duty to ensure that Private Hire Operators are fit and proper persons before considering the grant of the licence.

Applicants for a PHO licence are subject to a 'fit and proper' test, so will need to have a criminal record check (Basic DBS Disclosure), unless they hold a Waverley Hackney Carriage or Private Hire Driver licence, in which case a check has already been completed.

Applicants will be asked to state whether the business is to be operated by an individual, a company, or a partnership, and to answer questions about whether they have been or still are company director or Secretary.

If the applicant is a company or partnership each of the directors or partners in that company or partnership are subject to a 'fit and proper' test and will need to have a criminal record check (Basic DBS Disclosure)

The Licensed Operator must notify the Council in writing within 14 days regarding any changes to the company directors/partnerships.

The PHO operators' staff may also take bookings (be it by phone or in person). A vehicle controller decides which driver to send to a user, a position that could be exploited by criminals. It is therefore appropriate that all staff that have contact with PHV users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.

Operators or applicants for a licence are also required to provide a written policy regarding their employing ex-offenders in roles that have contact with the public and/or oversee the dispatching of vehicles.

As with the threshold to obtaining a PHV operators' licence, those staff with a conviction for offences detailed in our Conviction policy, attached at Annexe 6, (other than those relating to driving) may not be suitable to handle the sensitive information the public may provide (e.g. that their home is likely to be empty between certain dates) or to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

PHV operators must hold and maintain **living register** of all staff that have contact with the public and/or oversee the dispatching of vehicles and be able to evidence that they have had sight of a Basic DBS check on all individuals listed, and that this register is compatible with their policy on employing ex-offenders.

In relation to PHV Operators, the use of passenger service vehicles (PSV) licensed drivers is strictly forbidden.

Members of the public are entitled to expect when making a booking with a PHV operator that they will receive a PHV licensed vehicle and driver. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a PHV booking are not permitted as a condition of a PHV operator's licence. Drivers of PSVs who are PCV licence holders are not subject to the same checks as PHV drivers, as the work normally undertaken, i.e. driving a bus or coach, does not present the same risk to passengers.

PHV operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive guidance on registering as a data controller and how to meet legal obligations

The Operator will keep detailed records of all bookings, including information on the licensed private hire vehicle and driver who took the passengers to their destination. Private hire operator records are subject to occasional

unannounced visits and checks by officers of the Council. More detail on operators' licences is shown in Part 4.

It is considered appropriate for the Council to check that the relevant public liability insurance has been taken out for premises that are open to the public.

Duty of licence holder to comply with other legislation: All applicants have a duty to comply with all other legal requirements relating to the running of a business, for example, it may be necessary to obtain planning permission for the use of the premises from which the business operates, particularly where there is an office where vehicles may gather outside. It is unlikely that planning permission would be needed for a very small operator's business when it is run from home, for instance. The Licensing Section is not able to offer advice on planning matters. Council departments and others may share the information you give, if necessary, and as the law permits.

Right to Remain and work in the United Kingdom. Applicants for the Grant of a Licence will be required to produce documentary evidence of a right to remain and work in the UK. If an applicant has an expiry date on their right to work, any licence that may be granted will not be valid past the said expiry date unless further evidence of a right to remain or work is produced. If there is a restriction regarding the number of hours allowed to work then if a licence is granted a condition will be added to reflect said restriction.

Insurance. It is considered appropriate for the Council to check that the relevant public liability insurance has been taken out for premises that are open to the public. **New applicants** may be required to have a Disclosure and Barring Service (DBS) check, repeated every three years. If the applicant is already licensed by Waverley, the officers will advise whether these checks (the fit and proper test) will be needed, since the driver will already have provided the information.

All applicants are reminded that the Council requires under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 that Private Hire Operator licences may be granted only for businesses carried on at addresses within the Waverley boundaries. Accordingly, all records must be kept at the licensed address. Licensed operators are subject to unannounced inspections of their records at any time by an authorised officer of the Council.

Applications have to be fully and honestly completed or they may not be accepted for processing. As stated above in relation to other licences, a private hire operator's business may have to close for a period if he/she is late in renewing an existing licence.

Conditions applied to private hire operators' licences are shown at Annexe 5. Specific conditions may be applied in certain special cases. These will be discussed and explained to the individual licensee as required.

PART 8

THE COUNCIL'S LICENSING COMMITTEES

As part of the democratic process, members are elected to serve on the Council every four years. These elected councillors are appointed to committees to manage the various types of work that they handle, and they permit the officers to have certain authority to deal with specific matters (known as delegated authority).

All meetings of the Council, and its Committees and the Executive, are open to the public. Where a matter for discussion or decision may be sensitive or affect an individual there are rules which allow the meeting to exclude the press and public while it deals with that business.

The Council and its committees have regular meetings. The **Licensing and Regulatory Committee** deals with a variety of general licensing business. This Committee will usually consider such things as changes to licensing policies, income and expenditure, and the setting of fees for licences.

Changes to taxi and private hire licensing policies will normally be subject to consultation with licensees, which is usually both face to face at a meeting, and by email, giving opportunity for all to make comment. There are twice yearly liaison meetings between the Chairman of the Committee and the licence-holders. All licence-holders are invited by email to attend these meetings.

The Council also has a **Licensing (General Purposes) Sub-Committee**, which often follows on after the meetings of the Licensing and Regulatory Committee on the same date. It will normally deal with individual applications which need a decision, where the issues involved are beyond the scope of matters which the officers are allowed to deal with. Among other things, issues such as new or existing drivers where there may be criminal or driving convictions to deal with, complaints of a serious nature and similar situations will be considered by this Sub-Committee. Such issues are not generally considered in the open meeting, so the press and public will be excluded.

The Licensing (General Purposes) Sub-Committee will also consider requests for increases in the taxi fare scale and some miscellaneous matters.

[N.B. There are also **Licensing Sub-Committees** which deal specifically with the Licensing Act 2003 and the Gambling Act 2005 and deal with pubs, clubs and gambling matters. These meetings are normally held in the morning, starting at 10.00 am.]

PART 9

COMPLAINTS, DISCUSSIONS AND INTERVIEWS

On occasions, such as when a complaint is received, officers may request a licensee to attend the Council offices for discussion. The information notes at Annexe 10 outline the nature of the discussion.

If a licensee is invited to attend a formal interview (rather than an informal discussion), the licensee will be informed of his legal rights with regard to the interview.

PART 10

PENALTY POINTS SCHEME

Hackney Carriage and Private Hire Operators, Drivers and vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Conditions and the Council's Byelaws.

The aim of a penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanors and to act as a record of licence holder's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.

The primary objective of the penalty points scheme is to improve the levels of compliance and help improve the standards, safety and protection of the travelling public.

Where there is good evidence that a breach covered by the scheme has occurred (usually where this has been witnessed by a Council Officer) a Penalty Points Notice will be issued to the licensee.

Penalty points may be awarded against the proprietor of a vehicle or anyone holding a Hackney Carriage driver's licence, a Private Hire driver's licence or a Private Hire Operator's licence issued by Waverley Borough Council

Penalty Points will remain current for 3 years from the date the penalty points were issued. Points issued will be confirmed in writing and normally within 10 working days from the completion of an investigation.

In the event that a driver/owner/operator commits an offence or breaches a condition as listed in the penalty points table attached at Annexe 7, he/she shall be awarded the number of points applicable to the circumstances as shown in the table for the breach/offence shown in the table.

Where a licence holder accumulates 12 penalty points or more in any three year period, the matter will be referred to the Council's Licensing (General Purposes) Sub-Committee to decide whether the licence holder is a fit and proper person. The Licensing-Sub Committee may then suspend or revoke a licence, or issue a warning to the licence holder, depending on the circumstances. Periods of suspension of a licence by a Sub-Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual.

Any disputes regarding the issuing of penalty points should be made in writing and will be referred by the Licensing Team to the Head of Environmental Services.

If points are issued to a proprietor/driver for a matter which is also a criminal offence, e.g. bald tires, no badge, those person(s) will not then be the subject of a prosecution by the Council regarding the same matter.

Officers will not normally issue points for any offence/breach that has been dealt with or reported for prosecution etc. or any other enforcement action taken,

The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.

Following a revocation (due to accumulation of penalty points in this scheme) a new licence will not usually be granted by the Council for a minimum period of twelve (12) months.

The Council's Penalty Points Table is set out at [Annexe 7](#)

ANNEXE 1

CONDITIONS OF LICENCE TO DRIVE A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE (A DUAL LICENCE)

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976

Conditions subject to which Licence is granted:

1. The licence holder shall at all times
 - (a) Conduct himself/herself in a civil and orderly manner and comply with the reasonable requests of passengers in the vehicle.
 - (b) Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
 - (c) Be well dressed, neat and clean.
 - (d)
 - (i) Convey a reasonable quantity of luggage if so required by the person hiring the vehicle;
 - (ii) Give reasonable assistance in loading and unloading the luggage;
 - (iii) Give reasonable assistance in removing luggage to or from the entrance of any place at which he may take up or set down a passenger.
 - (e) A Licensed vehicle must not carry in the vehicle more than the number of passengers, of whatever age, specified in the vehicle licence. NOTE: Every child over 3 years of age must have his/her own designated seat in the vehicle and the vehicle must accord with the seatbelt requirements set by the Road Traffic Acts in force.
 - (f) Not carry any person in the vehicle during a hiring without the express permission of the person who has first hired the vehicle
2. When the vehicle has been hired to be present at an appointed time and place the driver shall, unless delayed by some sufficient cause, punctually attend with the vehicle at that time and place.
3. After every hiring the driver shall search the vehicle for any article which may have been accidentally left in the vehicle and, if any such article is

found, shall within 48 hours (unless sooner claimed by the owner) deliver the article to the nearest convenient office of the Council.

4. The licensee shall at all times comply with the instructions of the Council or of its authorised Officers concerning any matter relating to his occupation as a Hackney Carriage or Private Hire vehicle driver.

The licensee shall cooperate with requests from authorised compliance officers from licensing authorities in other areas when requested.

5. When operating as a Private Hire driver the licensee shall not display signs, call out, stand with the vehicle at a taxi rank or do anything else whatsoever which is likely to give any person the impression that the vehicle is available for hire as if it is a Hackney Carriage.
6. The licensee shall notify the Council in writing as soon as possible and, in any event, within fourteen days of any:
 - (a) Change of name, change of address, change of telephone number(s); N B any telephone number given to the Council for licensing purposes shall be capable of receiving withheld numbers;
 - (b) Illness or injury affecting his fitness to drive in any way;
7. The licensee shall report to the Council in writing as soon as possible, and in any event within, **48 hours** details of any:
 - (a) convictions or formal police cautions;
 - (b) motoring offences or endorsements of any type, including speed awareness courses;
 - (c) charges/summons/postal requisitions/fixed penalty notices in respect of any criminal offence;
 - (d) arrest or interview under caution for any alleged offence
 - (e) any communication notifying of any alleged offence.

and the licensee is advised to contact the Licensing Administrator (01483 523219) if in any doubt of his/her duties under this condition.

A failure by a licence holder to disclose an arrest that the licensing authority is subsequently advised of may be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

IMPORTANT NOTES

1. The above conditions are **additional** to the requirements of the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Disability Discrimination Act 1995, the more important of which are summarised below:

- (i) A vehicle may not be used as a private hire vehicle unless there is a vehicle licence in force for it and the person inviting or accepting hiring's has an operator's licence (1976 Act, Section 46).
 - (ii) This licence must be produced within five days at the request of an authorised Officer of the Council or a Police Officer (1976 Act, Section 53).
 - (iii) The driver must at all times when acting under this licence wear the driver's badge issued by the Council in such position and manner as to be plainly visible (1976 Act, Section 54).
 - (iv) The driver shall not without reasonable cause unnecessarily prolong, in distance or in time, any journey for which the vehicle has been hired (1976 Act, Section 69).
2. When operating as a **hackney carriage (taxi) driver** the licensee must observe the provisions of the **byelaws** and the above mentioned Acts, among the more important of which are the following:
- (i) If the hackney carriage is standing at a rank or in a street the driver must not without reasonable excuse refuse to drive to any place within the 'prescribed distance' (i.e. the Waverley Borough) (1847 Act, Section 53).
 - (ii) The authorised fare scale must be used at all times for journeys within the Borough (however the hiring is effected) and may only be dispensed with for journeys ending outside the Borough **IF** the hirer agreed **BEFORE** the journey commences (1847 Act, Section 58; Waverley Borough Council byelaws; 1976 Act, Section 66). (It is however at the discretion of the proprietor/driver to charge **less than** the metered fare in a hackney carriage.)
 - (iii) If a hackney carriage is used for a 'private hire contract' the fare is calculated from the point at which the hirer starts the journey. A 'private hire contract' for this purpose is one made either with some person other than the driver, or when the hackney carriage is not at a rank or plying for hire (1976 Act, Section 67).
 - (iv) A hackney carriage **must not be left unattended** in a street or place of public resort or entertainment; and if it is one of the first two on a rank the driver must be ready to be hired at once (1847 Act, Section 62 and Byelaws).
 - (v) The hackney carriage/private hire driver's badge provided by the Council must be worn in a plainly visible position, i.e. on the driver's lapel, at all times when plying for hire or hired (Byelaws).

- (vi) As a hackney carriage/private hire driver, you must be civil and orderly and give reasonable assistance with passengers' luggage (Byelaws).
- (vii) The following condition is attached to all **hackney carriage vehicle licences** and shall be complied with by the hackney carriage driver, unless he/she holds and displays an Exemption Certificate, which must be clearly exhibited, facing outwards, on the windscreen, or in a prominent place on the dashboard:

The licence holder/driver of the vehicle shall ensure that any disabled person wishing to travel as a passenger in the vehicle, and who is accompanied by an assistance dog, shall be accepted as a passenger together with the assistance dog, which shall remain with the passenger and be carried at no extra charge, in accordance with **Part 12 chapter 1 of the Equality Act 2010**

- 3. Children in taxis and private hire vehicles: If child restraints are not available in a licensed taxi or a licensed private hire vehicle, then:
 - Children under three years old may travel unrestrained, but this must be in the rear of the vehicle only
 - Those aged three years and above **MUST** use an adult seatbelt, and in the rear seat only
 - Any child up to 135 cms in height (4 foot 4 inches approx.) in the front seat of **any** vehicle must use the correct child seat or booster seat.
 - The driver of the vehicle is responsible for seat belt wearing by children under 14 years (except in taxis with fixed partitions).



ANNEXE 2

CONDITIONS OF LICENCE TO DRIVE A PRIVATE HIRE VEHICLE

Local Government (Miscellaneous Provisions) Act 1976

Conditions subject to which Licence is granted:

1. The licence holder shall at all times when acting as a driver of a Private Hire vehicle:
 - (a) Conduct himself/herself in a civil and orderly manner and comply with the reasonable requests of passengers in the vehicle.
 - (b) Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
 - (c) Be well dressed, neat and clean.
 - (d)
 - (i) Convey a reasonable quantity of luggage if so required by the person hiring the vehicle;
 - (ii) Give reasonable assistance in loading and unloading the luggage; and
 - (iii) Give reasonable assistance in removing luggage to or from the entrance of any place at which he may take up or set down a passenger.
 - (e) Not display signs, call out, stand with the vehicle at a Hackney Carriage rank or do anything else whatsoever which is likely to give any person the impression that the vehicle is available for hire as if it were a Hackney Carriage.
 - (f) Not carry in the vehicle more than the number of passengers, of whatever age, specified in the vehicle licence. N B every child must have his/her own designated seat in the vehicle and the vehicle must accord with the seatbelt requirements set by the Road Traffic Acts in force.
 - (g) Not carry any person in the vehicle during a hiring without the express permission of the person who has first hired the vehicle

2. When the vehicle has been hired to be present at an appointed time and place the driver shall, unless delayed by some sufficient cause, punctually attend with the vehicle at that time and place.
- 3 After every hiring the driver shall search the vehicle for any article which may have been accidentally left in the vehicle and, if any such article is found, shall within 48 hours (unless sooner claimed by the owner) deliver the article to the nearest convenient office of the Council.
4. The licensee shall at all times comply with the instructions of the Council or of its authorised Officers concerning any matter relating to his occupation as a Hackney Carriage or Private Hire vehicle driver.
The licensee shall cooperate with requests from authorised compliance officers from licensing authorities in other areas when requested.
5. The licensee shall notify the Council in writing as soon as possible and, in any event, within fourteen days of any:
 - (a) Change of name, change of address, change of telephone number(s); N B any telephone number given to the Council for licensing purposes shall be capable of receiving withheld numbers;
 - (b) Illness or injury affecting his fitness to drive in any way;
6. The licensee shall report to the Council in writing as soon as possible, and in any event within, 48 **hours** details of any:
 - (a) convictions or formal police cautions;
 - (b) motoring offences or endorsements of any type, including speed awareness courses;
 - (c) charges/summons/postal requisitions/fixed penalty notices in respect of any criminal offence;
 - (d) arrest or interview under caution for any alleged offence
 - (e) any communication notifying of any alleged offence.

and the licensee is advised to contact the Licensing Administrator (01483 523219) if in any doubt of his/her duties under this condition.

IMPORTANT NOTES

The above conditions are **additional** to the requirements of the Local Government (Miscellaneous Provisions) Act 1976, the more important of which are summarised below:

- (i) A vehicle may not be used as a private hire vehicle unless there is a vehicle licence in force for it and the person inviting or accepting hiring's has an operator's licence (Section 46).

- (ii) This licence must be produced within five days at the request of an authorised Officer of the Council or a Police Officer (Section 53).
- (iii) The driver must at all times when acting under this licence wear the driver's badge issued by the Council in such position and manner as to be plainly visible (Section 54).
- (iv) The driver shall not without reasonable cause unnecessarily prolong, in distance or in time, any journey for which the vehicle has been hired (Section 69).

The licence holder/driver of the vehicle shall ensure that any disabled person wishing to travel as a passenger in the vehicle, and who is accompanied by an assistance dog, shall be accepted as a passenger together with the assistance dog, which shall remain with the passenger and be carried at no extra charge, in accordance with Part 12 chapter 1 of the Equality Act 2010.

- (v) Children in taxis and private hire vehicles: If child restraints are not available in a licensed taxi or a licensed private hire vehicle, then:
 - Children under three years old may travel unrestrained, but this must be in the rear of the vehicle only
 - Those aged three years and above **MUST** use an adult seatbelt, and in the rear seat only
 - Any child up to 135 cms in height (4 foot 4 inches approx.) in the front seat of **any** vehicle must use the correct child seat or booster seat.
 - The driver of the vehicle is responsible for seat belt wearing by children under 14 years (except in taxis with fixed partitions).



ANNEXE 3

HACKNEY CARRIAGE LICENCES - STANDARD CONDITIONS OF THE LICENCE

1. The maximum permitted number of passengers is **xxxx**
2. The vehicle shall at all times when available for hire carry a roof sign and this shall be capable of illumination and connected to the taximeter, bearing the word 'TAXI'.
3. The plate supplied by the Council shall be clearly displayed on the rear exterior of the vehicle, using the bracket fixing provided, or an acceptable substitute exterior fixing method, such substitute to be agreed with the licensing enforcement officer; and the Council's fare chart and notice of the Licence Number shall be clearly displayed inside the vehicle using the window sticker and fare chart provided.
4. The vehicle shall at all times be maintained in sound and roadworthy mechanical condition and serviced according to the manufacturer's recommendations.
5. No alteration to the manufacturer's specification for the vehicle shall be carried out except with the approval of the Council.
6. The licence holder/driver of the vehicle shall ensure that any disabled person wishing to travel as a passenger in the vehicle, and who is accompanied by an assistance dog, shall be accepted as a passenger together with the assistance dog, which shall remain with the passenger and be carried at no extra charge, **in accordance with the Equality Act 2010**
7. The vehicle shall be kept properly taxed and insured for the purpose for which it is used (insurance shall be continuous - without breaks during the period of the licence - and shall cover hire and reward use) and the provisions of the Road Traffic Acts and all other relevant legislation shall be observed.
8. The vehicle shall carry a first aid kit and fire extinguisher, the minimum standard for which is as follows:

First Aid Kit

The first aid kit must comply with the suggested list of contents for travelling first aid kits as included within the Approved Code of Practice and Guidance: First Aid at Work - The Health and Safety (First-Aid) Regulation 1981 L74. These contents include:

- A leaflet giving general guidance on first aid
- 20 individually wrapped sterile adhesive dressings (assorted sizes)
- 2 sterile eye pads
- 4 individually wrapped triangular bandages
- 6 safety pins

All drivers are responsible for ensuring that items within the first aid kit that are marked with 'best before dates' are replaced by the dates given. All other items should be checked regularly by the driver/operator, and any damaged items should be replaced.

Fire Extinguisher

The vehicle shall carry a multi-purpose dry powder or foam (AFFF) spray extinguisher conforming to British Standard EN3. The minimum weight should be 1kg.

All first aid kits and fire extinguishers must be marked with the current licensed vehicle plate number, to be written in indelible ink

Spare/emergency tyre

9. In the event of a space saver tyre, run flat tyre (when punctured) or puncture repair kit being used it is only to complete a fare and must comply precisely with the manufacturers' recommendations. Any such defective wheel should be replaced before taking another fare to ensure passenger safety.

All other licensed vehicles must carry a spare wheel matching those fitted to the vehicle, and an appropriate means of changing the wheel

- 9a. Second hand tyres and/or tyres that are 10 years old or more from manufacture are prohibited from being used on the vehicle or carried as a spare.

Advertising

10. The proprietor may advertise his taxi company by one of the following:-

- (a) the name and telephone number of the taxi company operating the vehicle, on the rear of the 'TAXI' sign on the roof of the vehicle; or
 - (b) on the rear windscreen of the vehicle using a form of sign which does not affect visibility either in or out of the vehicle; or
 - (c) on the front and/or rear doors of the vehicle or,
 - (d) as authorised in writing by the Council following written application
11. No signs (including those of a campaigning nature) or advertisements whatsoever which are visible from the outside or inside of the vehicle shall be displayed other than as mentioned in (2 & 10 above), unless applied for and authorised by the Council.

Vehicle Cleanliness

12. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the Council.

Window Tinting

13. **Tinted Windows.** All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 and in particular the requirements relating to tinted windows, which states that as a minimum:

The light transmitted through the windscreen must be at least 75% and the front side windows must allow at least 70% of light to be transmitted through them.

Waverley also requires that vehicles will only be considered suitable where all rear windows allow at least 22% of light to be transmitted through them.

25. Tinted films applied to the vehicle windows (after manufacture) are not permitted

Vehicle Damage

14. The proprietor of the vehicle shall report to the Council any damage or accident affecting the safety, performance or appearance of the vehicle or the comfort or convenience of its passengers as soon as possible and, in any case, within 72 hours of the accident/damage occurring. This is in addition to any obligation to notify the Police.

Six-monthly inspections for vehicles of 5 years and older:

Licensed vehicles of 5 years and older are subject to a six-monthly vehicle inspection. You will receive a licence plate of 6 months duration if this applies to you, and a reminder may be sent to you to arrange to have the vehicle tested in good time for issue of a plate for the further 6-month period of the licence year, once the inspection has been passed.

IMPORTANT NOTES

The above conditions are **additional** to the relevant requirements of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, the more important of which are summarised as follows:

1. The proprietor(s) must not employ as a driver any person who does not hold a Hackney Carriage Driver's Licence (1847 Act, Section 47).
2. If the proprietor of a hackney carriage transfers his/her interest in it to another person he/she must within fourteen days give to the Council written notice of the name and address of the new proprietor (1976 Act, Section 49).
3. The proprietor must present the vehicle for mechanical inspection within such period and at such place as the Council by notice reasonably require (1976 Act, Section 50).
4. The proprietor of the vehicle involved in an accident affecting the safety, performance, or appearance of the vehicle or the comfort or convenience of its passengers **shall report the accident to the Council** as soon as possible and, in any case, **within 72 hours**. This is in addition to the normal obligation to notify the Police (1976 Act, Section 50).
5. The vehicle licence and insurance certificate must be produced to an authorised officer of the Council on request (1976 Act, Section 50).
6. Authorised officers of the Council (or Police Officers) may carry out 'spot checks' and may require further examination of the vehicle (1976 Act, Section 68).
7. A hackney carriage must not be left unattended in any street or place of public resort or entertainment (1847 Act, Section 62).



ANNEXE 4

PRIVATE HIRE VEHICLE LICENCES - STANDARD CONDITIONS OF THE LICENCE

Private Hire Vehicle Conditions

1. The maximum permitted number of passengers is **shown on the vehicle plate and vehicle's paper licence.**
2. The plate supplied by the Council shall be clearly displayed on the rear exterior of the vehicle, using the bracket fixing provided, or an acceptable substitute exterior fixing method, such substitute to be agreed with the licensing enforcement officer; and notice of the Licence Number shall be clearly displayed inside the vehicle using the window sticker provided.
- 2a. **A sign of a style approved by the Council bearing the words "Licensed Private Hire Vehicle Waverley Borough Council" shall be displayed on each front door of the vehicle. The sign shall also bear the words "This Vehicle must be pre-booked".**
3. The vehicle shall at all times be maintained in sound and roadworthy mechanical condition and serviced according to the manufacturer's recommendations.
4. No alteration to the manufacturer's specification for any vehicle licensed or to be licensed shall be carried out except with the approval of the Council.
5. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the Council.
6. The vehicle shall be kept properly taxed and insured for the purpose for which it is used (insurance shall be continuous - without breaks during the period of the licence - and shall cover hire and reward use) and the provisions of the Road Traffic Acts and all other relevant legislation shall be observed.

Advertising

7. No signs (including those of a campaigning nature) or advertisements whatsoever which are visible from the outside or inside of the private hire vehicle shall be displayed other than as

mentioned in (2 & 2a above), unless applied for and authorised by the Council.

8. The Licence holder shall ensure that neither he/she nor any person employed by him/her does anything in connection with the private hire vehicle which might lead members of the public to believe that the vehicle is standing or plying for hire in a street or acting in any way as a hackney carriage might do.
9. A taximeter need not be provided on a private hire vehicle but if one is fitted:
 - (a) the taximeter shall not be altered or tampered with except with the approval of the Council, and must be retested by the Council if it is altered or if the seal/s affixed by the Council are broken;
 - (b) the fare shall be recorded on the taximeter in plainly legible figures, and the word 'FARE' shall be clearly displayed so as to apply to such figures;
 - (c) the taximeter shall be kept securely fixed in such a position that the fare recorded is visible to all passengers within the vehicle at all times, and the figures shall be illuminated for this purpose whenever necessary.
10. The vehicle shall carry a first aid kit and fire extinguisher, the minimum standard for which is as follows:

First Aid Kit

The first aid kit must comply with the suggested list of contents for travelling first aid kits as included within the Approved Code of Practice and Guidance: First Aid at Work - The Health and Safety (First-Aid) Regulation 1981 L74. These contents include:

- A leaflet giving general guidance on first aid
- 20 individually wrapped sterile adhesive dressings (assorted sizes)
- 2 sterile eye pads
- 4 individually wrapped triangular bandages
- 6 safety pins

All drivers are responsible for ensuring that items within the first aid kit that are marked with 'best before dates' are replaced by the dates given. All other items should be checked regularly by the driver/operator, and any damaged items should be replaced.

Fire Extinguisher

The vehicle shall carry a multi-purpose dry powder or foam (AFFF) spray extinguisher conforming to British Standard EN3. The minimum weight should be 1kg.

All first aid kits and fire extinguishers must be marked with the current licensed vehicle plate number, to be written in indelible ink.

Spare/emergency tyre

- 11 In the event of a space saver tyre, run flat tyre (when punctured) or puncture repair kit being used it is only to complete a fare and must comply precisely with the manufacturers' recommendations. Any such defective wheel should be replaced before taking another fare to ensure passenger safety. All other licensed vehicles must carry a spare wheel matching those fitted to the vehicle, and an appropriate means of changing the wheel.
- 11a. Second hand tyres and/or tyres that are 10 years old or more from manufacture are prohibited from being used on the vehicle or carried as a spare

Window Tinting

13. **Tinted Windows.** All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 and in particular the requirements relating to tinted windows, which states that as a minimum:
 - The light transmitted through the windscreen must be at least 75% and the front side windows must allow at least 70% of light to be transmitted through them.

Waverley also requires that vehicles will only be considered suitable where all rear windows allow at least 22% of light to be transmitted through them.

Tinted films applied to the vehicle windows (after manufacture) are not permitted

Vehicle Damage

14. The proprietor of the vehicle shall report to the Council any damage or accident affecting the safety, performance or appearance of the vehicle or the comfort or convenience of its passengers as soon as possible and, in any case, within 72 hours of the accident/damage occurring. This is in addition to any obligation to notify the Police.

Six-monthly inspections for vehicles of 5 years and older:

Licensed vehicles of 5 years and older are subject to a six-monthly vehicle inspection. A licence plate of 6 months duration will be provided in these circumstances, and a reminder will be sent to the proprietor to arrange to have the vehicle tested in good time for issue of a plate for the further 6-month period of the licence year, once the inspection has been passed

IMPORTANT NOTES

The above conditions are **additional** to the relevant requirements of the Local Government (Miscellaneous Provisions) Act 1976, the more important of which are summarised as follows:

- (i) No proprietor of a private hire vehicle may employ for the purpose of any hiring a person who does not hold a Private Hire Driver's Licence, and no bookings may be invited or accepted for a private hire vehicle in the course of business unless the person inviting or accepting the bookings has an operator's licence (Section 46).
- (ii) If the proprietor of a private hire vehicle transfers his/her interest in it to another person he/she must within fourteen days give to the Council written notice of the name and address of the new proprietor (Section 49).
- (iii) The proprietor must present the vehicle for mechanical inspection within such period and at such place as the Council by notice reasonably requires (Section 50).
- (iv) The proprietor of the vehicle involved in an accident affecting the safety, performance, or appearance of the vehicle or the comfort or convenience of its passengers shall report the accident to the Council as soon as possible and, in any case, within 72 hours. This is in addition to the normal obligation to notify the Policy (Section 50).
- (v) The vehicle licence and insurance certificate must be produced to an authorised officer of the Council on request (Section 50).
- (vi) Authorised officers of the Council (or Police Officers) may carry out 'spot checks' and may require further examination of the vehicle (Section 68).
- (vii) If a taximeter is fitted it must be tested by the Council (Section 71).

In addition it should be noted that it is unlawful to stand or ply for hire in any street within the Waverley Borough without a Hackney Carriage Licence.

ANNEXE 5

PRIVATE HIRE OPERATOR - STANDARD CONDITIONS OF THE LICENCE

1. The operator must keep a record of all the details set out below in respect of every booking of a private hire vehicle operated by him/her, whether the booking is effected directly with the hirer or undertaken at the request of another operator.

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.
- The fare agreed

2. The operator shall keep in a form similar to that set out below, a record of the particulars prescribed therein in respect of every private hire vehicle operated by him/her.

Private Hire Vehicle licence number	Registration Number	Make and Model	Proprietor of vehicle	Council issuing the vehicle licence	Date of vehicle licence expiry	Remarks

3. The operator shall notify the Council of any material change in the circumstances on the basis of which the Licence was granted, in particular the operator must inform the Council of:-

- (a) any change of address;
- (b) any change in the nature of the business carried on by him/her;
- (c) any change in the composition of the firm, if a partnership;
- (d) The Licensed Operator must notify the Council in writing within 7 days regarding any changes to the company directors/partnerships.
- (e) any other change in the information given by the operator to the Council at the time of granting the current Licence.

NOTE (a to e above) Notification must be given in writing within 14 days of the event.

(f) any convictions, formal police cautions, motoring offences or endorsements, fixed penalty notices, charge/summons/postal requisition, arrest or interview under caution and any communication notifying of any alleged offences against the operator or a partner of the operator or a company of which the operator is a director or secretary;

For (f) Convictions Notification must be given in writing within 48 hours

4. No advertising material, letter headings or other stationery, or any business name used by the operator, shall include the words 'taxi' or 'cab' whether in the singular or plural and whether they form part of another word or not, unless the proprietor is the holder of a Hackney Carriage Licence issued by the Council.
5. The operator shall ensure that neither he/she nor any person employed by him/her causes or permits anything to be done which could lead a member of the public to believe that a private hire vehicle operated by him/her is standing or plying for hire in a street.
6. When a booking is accepted for a private hire vehicle to be present at a particular time and place, the operator shall take all reasonable steps to ensure that such a vehicle is so present.

IMPORTANT NOTE

The above conditions are **additional** to the requirements of the Local Government (Miscellaneous Provisions) Act 1976, the more important of which are summarised below:-

- (i) No operator shall operate any vehicle in a controlled district as a private hire vehicle unless both vehicle and driver are correctly licensed under the Act (Section 46).
- (ii) An operator who accepts a booking for a private hire vehicle is liable under the contract for its hire, whether or not he/she provides the vehicle (Section 56(1)).
- (iii) The particulars required to be kept under conditions (i) and (ii) must be produced to an authorised Officer of the Council or to a Police Officer when required (Section 56(2) and (3)), as must this Licence (Section 56(4)).

In addition note:-

- (a) to 'operate' a private hire vehicle is to make provision in the course of business for the invitation or acceptance of bookings for it;

- (b) this Licence is granted to a particular person and cannot be sold or transferred. Therefore, for example, a new owner of the business must apply for a new licence;
- (c) the carrying on of a business may need planning permission for the building from which the business operates, registration of a business name, etc. Operators must comply with all relevant legislation.

Hackney Carriage & Private Hire Licensing

Policy regarding the relevance of convictions and other related information

Contents

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1. Introduction

- 1.1 This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a Hackney Carriage and/or Private Hire Driver Licence. In addition to criminal convictions the Council will also take into account other factors such as demeanour, attitude, general character, non-criminal behaviour and police or other relevant records or information from a reliable source.
- 1.2 Whilst this policy primarily applies to the determination of driver licences, where a conviction (as defined below) is considered relevant to the fitness and propriety/suitability of an individual to hold or be granted a Private Hire Operator Licence or vehicle licence, then this policy must be referred to in the determination of that licence/application.
- 1.3 The Council is mindful that each case must be considered on its merits and where exceptional circumstances demand, the Council may depart from this policy.
- 1.4 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
 - Applicants for a driver's, vehicle or private hire operator licence
 - Existing licensees whose licences are being reviewed or renewed
 - Licensing officers
 - Members of the licensing committee/sub-committee
 - Magistrates and Judges hearing appeals against local authority decisions
- 1.5 For renewal applications and current licence holders the policy will not be applied retrospectively. However the policy will be applied if any additional convictions are incurred or brought to the attention of the Council that would call into question a person's suitability to hold a licence.
- 1.6 It is the responsibility of Waverley Borough Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 and the Hackney Carriage Byelaws. In exercising this duty the Council must consider the need to ensure the safety of the public its primary consideration. Licences cannot be issued unless the person is considered to be 'fit and proper'.
- 1.7 In seeking to safeguard the safety of the public. The council will be concerned to ensure:
 - That a person/applicant is fit and proper in accordance with Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
 - That the person does not pose a threat to the public

- That the public are safeguarded from dishonest persons
- The safety of children, young persons and vulnerable adults

1.8 There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:

‘Would you (as a member of the licensing committee or other person charged with the ability to a grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get in to a vehicle with this person alone **at any time day or night?**’

If the answer to this question (or a similar test) is an unqualified ‘Yes’ then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage driver’s licence.

1.9 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Number of endorsed DVLA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the Council will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Social Services other licensing authorities, other departments within the Council, and statutory agencies.

1.10 In this policy, the word “applicant” refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light.

1.11 In this policy, the word “conviction” is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.

1.12 The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

- 1.13 As licensed drivers often carry unaccompanied and vulnerable passengers, the council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern, The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public.

2 General Policy

- 2.1 Whilst the Council may consider that an applicant with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:
- a. Remain free of conviction for an appropriate period as detailed below; and
 - b. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that an applicant is a fit and proper person to hold a licence.
- 2.2 The standards and criteria set out in paragraphs 4 to 18 below are those that would normally be applied to applications and licences. The Council may depart from these criteria, however it will only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3 Powers

- 3.1 Section 61 of the Local Government Miscellaneous Provisions Act 1976 allow the council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence, of failure to comply with the provisions of the Town Police Clauses Act 1847 or of failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or if he/she has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty, or for any other reasonable cause.

3.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a Private Hire or Hackney Carriage driver's licence, whether spent or not. Therefore the council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

4 **Consideration of disclosed criminal history**

4.1 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Operator or Vehicle driver's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the council will look at:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of the conviction, warning, caution etc.
- Circumstances of the individual concerned
- Any sentence imposed by the court
- The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
- Whether they form part of a pattern of offending
- The applicant's attitude
- Any other character check considered reasonable (e.g. personal references if requested by the Council)
- Any other factors that might be relevant, for example:
 - The previous conduct of an existing or former licence holder,
 - Whether the applicant has intentionally misled the council or lied as part of the application process,
 - Information provided by other agencies/council departments.

Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

In considering an individual's criminal record, the licensing authority must consider each case on its merits, but will take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.

- 4.2 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 4.3 Existing holders of driver's licences are required to notify the council in writing within **48 hours** of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within **48 hours** of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.
- 4.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (s57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 4.5 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

5 Options when determining an application/licence

- 5.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:
- grant the licence or take no further action
 - grant the licence with additional conditions
 - refuse, revoke, or suspend the licence
 - issue a warning which may include the use of enforcement penalty points
- 5.2 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

6. Offences involving violence

6.1 Licensed drivers have close regular contact with the public. A licence will not normally be granted if the applicant has a conviction for an offence that involved the loss of life such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.2 A licence will not normally be granted until at least 10 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Assault occasioning actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Common assault
- Resisting arrest
- Any racially-aggravated offence against a person or property
- Affray
- Any offence that may be categorised as domestic violence
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence
- Any offence (including attempted or conspiracy to commit offences) similar to those above.

6.3 A licence will not normally be granted until at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

7. Offences involving a weapon (not a firearm)

- 7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public. For firearms offences see 6.2.
- 7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 5 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.
- 7.3 2 or more convictions for a violent offence will normally result in an application being refused.

8. Sexual and indecency offences

- 8.1 All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused. Such offences include:
- Rape
 - Assault by penetration
 - Offences involving children or vulnerable adults
 - Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
 - Making or distributing obscene material
 - Possession of indecent photographs depicting child pornography.
 - Sexual assault
 - Indecent assault
 - Exploitation of prostitution
 - Soliciting (kerb crawling)
 - Any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
 - Making obscene / indecent telephone calls
 - Indecent exposure
 - Any similar offences (including attempted or conspiracy to commit) or offences which replace the above
- 8.2 In addition to the above the council will not normally grant a licence to any applicant who is or has ever been on the Sex Offenders Register or similar register.

9. **Dishonesty**

9.1 A serious view is taken of any conviction involving dishonesty.

9.2 A minimum period of 5 years free of conviction or at least 5 years since the completion of sentence (whichever is longer) is required to have passed before a licence is granted. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- false representation
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging
- or any similar offences (including attempted or conspiracy to commit) or offences which replace the above

9.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

9.4 Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will normally be rejected or refused.

10. **Alcohol and Drugs**

10.1 A serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs or where the driver has been found to be under the influence of psychoactive substances.

10.2 At least 5 years, after the restoration of the DVLA driving licence following a drink drive or driving when under the influence of drugs conviction should elapse before an application will be granted.

10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 10 years or at least 10 years have passed since the completion of any sentence and/or licence period, whichever is the greater. There will then be full consideration of the nature of the offence and the quantity /type of drugs involved.

- 10.4 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs.
- 10.5 If there is evidence of persistent drugs or alcohol use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict (drug or alcohol) then they would be required to show evidence of 8 years free from drug taking after detoxification treatment.
- 10.6 A licence will not normally be granted for drunkenness offences not involving a motor vehicle for a period of one year after a single conviction and 2 years after 2 or more convictions within 2 years of each other.
- 11. Driving offences involving the loss of life**
- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.
- 11.2 A licence will not normally be granted if an applicant has a conviction for:
- Causing death by dangerous driving
 - Causing death by careless driving whilst under the influence of drink or drugs
 - Causing death by careless driving
 - Causing death by driving: unlicensed, disqualified or uninsured drivers
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 12 Other traffic offences**
- 12.1 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 2 years.
- 12.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.
- 12.3 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal. However, with existing licensees they may be subject to separate consideration as part of the Penalty Points Enforcement Policy.

- 12.4 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.
- 12.5 In this policy, the term “disqualification” refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.
- 12.6 In “totting up” cases where disqualification is considered by the Court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the licensing authority is likely to refuse a hackney carriage or private hire driver’s licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

13 Outstanding Charges or Summonses

- 13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 13.2 If the outstanding charge or summons involves a serious offence and the individual’s conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

14 People banned from working with children and vulnerable adults

- 14.1 A serious view is to be taken of any applicant or licence holder who has been banned from working with children or vulnerable adults. A licence **will not** be granted if an applicant has been found unfit to work with children or vulnerable adults.

15 Non-conviction information

- 15.1 The Council will take into account intelligence which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, civil penalties and complaints from the public. In considering the most appropriate action to take following the receipt of information), the credibility of both the witness / complainant and the licence holder will be taken into account.

- 15.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application or revoking an existing licence.
- 15.3 In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.
- 15.4 A licence will not normally be granted until at least 1 year has elapsed since a Criminal Behaviour Order.

16 Licensing Offences

- 16.1 Offences under taxi and private hire and associated legislation such as plying for hire without a licence, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

17 Insurance Offences

- 17.1 A serious view will be taken of convictions for driving, being in charge of a vehicle without insurance, or allowing person to drive whilst uninsured. A previous isolated incident will not necessarily stop a licence being granted provided an individual has been free of conviction for 3 years. However strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 17.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have his Operator's Licence reviewed with a view to revocation and will not be permitted to hold a licence for a period of at least 3 years from the date of any revocation.
- 17.3 Where a specific offence is not mentioned, a suitable period of time will be determined by reference to offences described. The Council reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

18 Applicants with periods of residency outside the UK

- 18.1 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the council will require a certificate of good conduct authenticated by the relevant embassy.

18.2 If an applicant has spent six continuous months or more overseas (since the age of 16) the council will expect to see evidence of a criminal record check from the country / countries visited covering the period.

19 **Summary**

19.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Council will be mindful of the need to protect the public and caution will be exercised.

19.2 While it is possible that an applicant may have a number of convictions that, individually, do not prevent a licence from being granted, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

ANNEXE 7

<u>PENALTY POINTS SCHEME</u>	Offence/Breach of Condition	Maximum Points Applicable	Driver	Vehicle Owner or Operator
1	Providing false or misleading information on licence application form/failing to provide relevant information or the relevant fee (including dishonoured cheques)	6	✓	✓
2	Failure to produce relevant documents within timescale when requested by an authorised officer	4	✓	✓
3	Failure to notify, in writing, the Council of change of address within 14 calendar days	3	✓	✓
4	Failure to report, in writing, within 72 hours accident or damage to licensed vehicle, in accordance with licence condition	4	✓	✓
5	Failure to notify the Council, in writing, of any motoring offences/endorsements or criminal convictions/cautions or charges brought against them within 48 hours	4	✓	✓
6	Failure to submit renewal application at least 10 days before expiry	4	✓	✓
7	Littering	3	✓	✓
8	Failure to provide proof of insurance cover when requested	4	✓	✓
9	Failure to notify, in writing, within fourteen days a change in medical circumstances	4	✓	
10	Failure to notify transfer of licence Private Hire or Hackney Carriage vehicle	4		✓
11	Failure to carry an assistance dog without requisite exemption	12	✓	
12	Failure to wear driver's badge or have prominently displayed so a customer can see it	4	✓	
13	Driver not holding a current/valid DVLA Licence	12	✓	

<u>PENALTY POINTS SCHEME</u>	Offence/Breach of Condition	Maximum Points Applicable	Driver	Vehicle Owner or Operator
14	Unsatisfactory appearance of driver	3	✓	
15	Refusal to accept hiring without reasonable cause e.g. drunk or rude customer	6	✓	
16	Using a non-approved or non-calibrated taximeter	4		✓
17	Failure to display fare card	3	✓	
18	Hackney Carriage vehicle unattended on a rank not available for immediate hire	4	✓	
19	Failure to observe rank discipline. (Hackney Carriage)	3	✓	
20	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	✓	
21	Using unlicensed vehicle or vehicle without insurance	12	✓	✓
22	Using a vehicle subject to a suspension order issued by an authorised officer or a police officer	12	✓	
23	Using a vehicle for which the licence has been suspended or revoked	12	✓	
24	Unsatisfactory condition of vehicle, interior or exterior	4	✓	✓
25	Failure to display external/internal licence plate or signs in accordance with Policy	4	✓	✓
26	Carrying more passengers than stated on the vehicle licence	6	✓	
27	Failure to return vehicle licence plate within 7 days after due notice following revocation or suspension of such licence	6		✓
28	Dashboard warning light illuminated	4	✓	
29	Failure to carry fire extinguisher in accordance with Policy	3	✓	✓
30	Failure to carry first aid kit in accordance with Policy	3	✓	✓

<u>PENALTY POINTS SCHEME</u>	Offence/Breach of Condition	Maximum Points Applicable	Driver	Vehicle Owner or Operator
31	Displaying unsuitable, unauthorised or inappropriately sited signs or advertisements in or on the vehicle	6		✓
32	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle	8	✓	✓
33	Failure to cooperate with a reasonable request from an authorised officer from another Council Authority	6	✓	
34	Smoking, using e-cigarettes and/or vape sticks or strong evidence of any of these in the vehicle	6	✓	
35	Illegally plying for hire	12	✓	
36	Parking/Stopping a Private Hire Vehicle on a rank	9	✓	
37	Parking/Stopping a Private Hire Vehicle within 100 meters of a rank without a booked fare	6	✓	
38	Displaying any feature on private hire vehicle that may suggest that it is a taxi	6	✓	✓
39	Misleading use of the words 'Taxi' or 'Cab' on advertising materials	6	✓	✓
40	Failure to produce on request records of drivers work activity	4		✓
41	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6		✓
42	Abusive behaviour to Council Officer	5	✓	✓
43	Unsatisfactory behaviour or conduct of driver	1-12	✓	✓
44	Failure to give assistance with loading/unloading when requested	3	✓	
45	Failure to carry legal spare wheel or repair kit and tools if run flat tyres are not fitted	3	✓	✓
46	Minor vehicle defects e.g. blown exhaust, ineffective/broken windscreen wiper/washer	3	✓	

<u>PENALTY POINTS SCHEME</u>	Offence/Breach of Condition	Maximum Points Applicable	Driver	Vehicle Owner or Operator
47	Urinating or defecating in a public place	5	✓	
48	Failure to comply with any other licensed conditions	3	✓	✓
49	A licensed vehicle with a bald tyre or other major defect	5 per tyre	✓	✓
50	Minor contravention of a section of the Road Traffic Act or other legislation relating to vehicle, driver or operator licensing	3	✓	
51	Parking in contravention of public highway parking restrictions	3	✓	
52	Parking/stopping or picking up or dropping passengers on zigzags of a pedestrian crossing or school entrance	3	✓	
53	Waiting or stopping on a double yellow line area, bus stop or private land (without the owner's permission) unless requested by a paying customer present in the vehicle	3	✓	
54	Use of hand held mobile device (e.g. mobile phone) whilst driving licensed vehicle	12	✓	
55	Eating or drinking whilst driving a licensed vehicle	3	✓	
56	Points awarded by Licensing Sub-Committee where matters referred to them for decision	1-12	✓	✓
57	Failure to notify, in writing, within 14 days regarding any changes to the company directors/partnerships.	4		✓

ANNEXE 8

NOTE: By virtue of a Charter, Waverley District Council was granted Borough status from 21st February 1984 and these Byelaws remain in force in respect of the area now known as Waverley Borough.

BYELAW NO 17 - STANDS FOR HACKNEY CARRIAGES

Pursuant to Section 63 of the Local Government (Miscellaneous Provisions) Act 1976, the Waverley District Council has appointed each of the several places specified in the following list as a stand for such number of Hackney Carriages as is specified in the list (*the latest list of hackney carriage stands is set out at page 6? of this booklet*)

WAVERLEY DISTRICT COUNCIL

BYE-LAWS

made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875 by the Waverley District Council with respect to Hackney Carriages in the Waverley District.

Interpretation

1. Throughout these bye-laws “the Council” means the Waverley District Council and “the district” means the whole Waverley District.

Provisions regulating the manner in which the number of each Hackney Carriage corresponding with the number of its licence, shall be displayed

2. (a) The proprietor of a Hackney Carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto:
- (b) A proprietor or driver of a Hackney Carriage shall:
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

**Provisions regulating how
Hackney Carriages are to be
furnished or provided**

3. The proprietor of a Hackney Carriage shall:
- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) cause the roof or covering to be kept watertight;
 - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a Hackney Carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say
- (i) It the taximeter is fitted with a flag or other device bearing the words **“FOR HIRE”**:
 - (a) The words **“FOR HIRE”** shall be exhibited on each side of the flag or other device in plain letters at least one inch in height and the flag or other device shall be capable of being locked in a position in which the words are horizontal and legible;
 - (b) when the flag or other device is so locked the machinery of the taximeter shall not be in action and the means of bringing it into action shall be by moving the flag or other device so that the words are not conveniently legible;
 - (c) when the flat or other device is so locked that the aforesaid words are horizontal and legible no fare shall be recorded on the face of the taximeter.

- (ii) If the taximeter is not fitted with a flag or other device bearing the words **“FOR HIRE”**:
 - (a) the taximeter shall be fitted with a key or other device the turning of which will bring the machinery of the taximeter into action and cause the word **“HIRED”** to appear on the face of the taximeter;
 - (b) such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and no fare is recorded on the face of the taximeter.
 - (iii) When the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take in pursuance of the bye-law in that behalf for the hire of the carriage by distance.
 - (iv) The word **“FARE”** shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon.
 - (v) The taximeter shall be so placed that all letters and figures on the face thereof may be at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring.
 - (vi) The taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.
5. The proprietor of a Hackney Carriage provided with a taximeter not fitted with a flag or other device bearing the words **“FOR HIRE”** shall cause the carriage to be provided with a sign so constructed as to comply with the following requirements, that is to say:
- (i) The sign will bear the words **“FOR HIRE”** in plain letters at least one inch in height;
 - (ii) The sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the carriage whether or not the carriage is for hire.
 - (iii) The requirements specified in byelaws 4(i) (a) and 5(i) shall not apply to a hackney carriage provided with a taximeter which bears the sign of European Economic Community pattern approval or the mark of European Economic Community partial verification mentioned in regulation 2 of, and described in Schedule 1 to, the Measuring Instruments (European Economic Community Requirements) Regulations 1975 or any other regulations replacing those regulations or containing provision for the same purpose, and for the time being in force.

**Provisions regulating the conduct of the Proprietors
and Drivers of Hackney Carriages plying within the
district in their employments and determine whether
such Drivers shall wear any and what badges**

6. The driver of a Hackney Carriage shall
- (i) if the taximeter is fitted with a flag or other device bearing the words "**FOR HIRE**"
 - (a) when standing or plying for hire keep such flag or other device locked in the position in which the words are horizontal and legible;
 - (b) before commencing the journey, bring the machinery of the taximeter into action by moving the flag or other device so that the words are not conveniently legible and so that the word "**HIRED**" is legible on the face of the taximeter, and keep the machinery of the taximeter in action until the termination of the hiring.
 - (ii) If the taximeter is not fitted with a flag or other device bearing the words "**FOR HIRE**"
 - (a) when standing or plying for hire keep the taximeter locked in the position in which no fare is recorded on the face of the taximeter and operate the sign provided in pursuance of bye-law 5 so that the words "**FOR HIRE**" are clearly and conveniently legible by persons outside the carriage;
 - (b) as soon as the carriage is hired by distance, and before commencing the journey, bring the machinery of the taximeter into action by moving the key or other device fitted for the purpose so that the word "**HIRED**" is legible on the face of the taximeter in action until the termination of the hiring.
 - (iii) Cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purpose of the Road Traffic Act 1972 and also at any other time at the request of the hirer.
7. A proprietor or driver of a Hackney Carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
8. The driver of a Hackney Carriage shall, when plying for hire in any street and not actually hired:
- (a) proceed with reasonable speed to one of the stands fixed by the bye-law in that behalf;

- (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at a 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 and so as to face in the same direction;
 - (d) from time to time when any other carriage immediately 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 driven off or moved forward.
9. The drivers of the first two Hackney Carriages standing upon a stand appointed by the Council shall be in constant attendance in or adjacent to their carriages or in a shelter provided at that stand ready to be hired at once.
 10. A proprietor or driver of a Hackney Carriage, when standing or plying 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.
 11. The driver to a Hackney Carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
 12. The proprietor or driver of a Hackney Carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
 13. The driver of a Hackney Carriage when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.
 14. A proprietor or driver of a Hackney Carriage shall not convey or permit to be conveyed in such carriage any greater number of persons (excluding the driver) than the number of persons specified on the plate affixed to the outside of the carriage. Provided that for the purpose of this bye-law two children under the age of twelve years shall be regarded as one person and children under the age of three years shall not be reckoned.
 15. If a badge has been provided by the Council and delivered to the driver of a Hackney Carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
 16. The driver of a Hackney Carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage;
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading;

- (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.

Provision fixing the stands of Hackney Carriages

17. Each of the several places specified in the following list shall be a stand for such number of Hackney Carriages as is specified in the list:-

Description of Stand

Number of Carriages

As designated by the Waverley Borough Council from time to time pursuant to Section 63 of the Local Government (Miscellaneous Provisions) Act 1976

Provisions fixing the rates or fares to be paid for Hackney Carriages within the district, and securing the due publication for such fares

18. The proprietor or driver of a Hackney Carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the following table, the rate or fare being calculated by distance unless the hirer expresses at the commencement of the hiring his desire to engage by time.

Provided always that where a Hackney Carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the following table which it may not be possible to record on the face of the taximeter.

Fares for Distance

(inclusive of V.A.T.)

As determined by Waverley Borough Council from time to time pursuant to Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.

(Copy of current fare tariff available on demand and on the Council's web site)

- (b) The proprietor or driver of a Hackney Carriage bearing a statement of fares in accordance with this bye-law shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and re-delivery of any property accidentally left in Hackney Carriages, and fixing the charges to be made in respect thereof

20. The proprietor or driver of a Hackney Carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
21. The proprietor or driver of a Hackney Carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage-
- (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge of the office on his giving a receipt for it;
- (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

Penalties

22. Every person who shall offend against any of these bye-laws shall be liable on summary conviction to a fine not exceeding fifty pounds and in the case of continuing offence to a further fine not exceeding five pounds for each day during which the offence continued after conviction therefor.

Repeal of Bye-Laws

23. The bye-laws relating to Hackney Carriages which are referred to in the Schedule attached to these bye-laws are hereby repealed.

Schedule

Date of Bye-Laws	By Whom Made	Date of Confirmation	By Whom Confirmed
28.9.1964	Farnham Urban District Council	25.1.1965	Secretary of State Home Office
27.1.1972	Farnham Urban District Council	30.3.1972	Secretary of State Home Office
25.9.1972	Haslemere Urban District Council	16.4.1973	Secretary of State Home Office
15.1.1974	Haslemere Urban District Council	26.2.1974	Secretary of State Home Office

Made under the Common Seal of the Waverley District Council on the 25th day of March 1980.

The **COMMON SEAL** of the)
WAVERLEY DISTRICT COUNCIL)
was hereunto affixed in the)
presence of: -)

(Sgd) M C V ALLCHIN
Member

(Sgd) E D RICHENS
Assistant Secretary

L.S.

The foregoing byelaws are hereby
confirmed by the Secretary of State
and shall come into operation on
1st day of July 1980.

L.S.

R F D SHUFFREY
An Assistant Under
Secretary of State,
Home Office

12th June 1980

ANNEXE 9

Hackney Carriage/Private Hire Trade Offences

Town Police Clauses Act 1847

Section	Offence	Maximum Penalty
40	Giving false information on application for HC(V) proprietor's licence	Level 1
44	Failure to notify change of address of HC(V) proprietor	Level 1
45	Plying for hire without HC(V) proprietors licence	Level 4
47	Driving a HC (V) without HC drivers' licence.	Level 3
47	Lending or parting with HC drivers' licence	Level 3
47	HC(V) proprietor employing unlicensed driver	Level 3
48	Failure of HC(V) proprietor to hold HC drivers' licence	Level 1
48	Failure of HC(V) proprietor to produce HC drivers' licence	Level 1
52	Failure to display HC(V) plate	Level 1
53	Refusal to take a fare	Level 1
54	Charging more than the agreed fare	Level 1
55	Obtaining more than the legal fare	Level 3*
56	Travelling less than the lawful distance for the 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 another person than the hirer without consent	Level 1
60	Driving HC(V) without proprietor's consent	Level 1
60	Allowing another to drive HC(V) without proprietors' consent	Level 1
61	Drunken driving of HC(V)	Level 1

61	Wanton / furious driving / wilful misconduct causing injury / danger	Level 1
62	Driver leaving HC(V) unattended	Level 1
64	HC driver obstructing other HC(V)'s	Level 1

- This incurs a level 3 penalty and 1 months' imprisonment until the excess is refunded.

Local Government (Miscellaneous Provisions) Act 1976

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

Private Hire Trade Offences

Local Government (Miscellaneous Provisions) Act 1976

Section	Offence	Maximum
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	Penalty
46(1)(a) Using an unlicensed PH(V)	Level 3
46(1)(b) Driving a PH(V) without a PH driver's licence	Level 3
46(1)(c) Proprietor of a PH(V) using an unlicensed driver	Level 3
46(1)(d) Operating a PH(V) without a PH operator's licence	Level 3
46(1)(e) Operating a vehicle as a PH(V) when the vehicle is not licensed as a PH(V)	Level 3
46(1)(e) Operating a vehicle as a PH(V) when the driver is not licensed as a PH driver	Level 3
48(6) Failure to display PH(V) plate	Level 3
49 Failure to notify transfer of PH(V) licence	Level 3
50(1) Failure to present PH(V) for inspection as required	Level 3
50(2) Failure to inform local authority where PH(V) is stored if requested	Level 3
50(3) Failure to report an accident to local authority	Level 3
50(4) Failure to produce PH(V) licence and insurance certificate	Level 3
53(3) Failure to produce PH drivers licence	Level 3
54(2) Failure to wear PH driver's badge	Level 3
56(2) Failure by PH operator to keep records of bookings	Level 3
56(3) Failure of PH operator to keep records of vehicles operated by him	Level 3
56(4) Failure to produce PH operator's licence on request	Level 3
57 Making false statement or withholding information to obtain PH driver's or operator's licence	Level 3
58(2) Failure to return plate after expiry of notice, revocation or suspension of PH(V) licence	Level 3 + £10 daily fine
61(2) Failure to surrender driver's licence after suspension, revocation or refusal to renew	Level 3
67 Charging more than the meter 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) Obstructing 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

Section	Offence	Maximum Penalty
64(2)(A)	Driving a PH(V) with a roof sign which contravenes s64(1)	Level 3
64(2)(b)	Causing or permitting a PH(V) to be driven with a roof sign which contravenes s64(1)	Level 3

Disability Discrimination Act 1995

Section	Offence	Maximum Penalty
37	Refusing to carry a guide dog and hearing dogs	Level 3
37A	Refusing to carry a assistance dogs in private hire vehicle	Level 3

Standard Scale of Fines

Fine 'levels' refer to the concept of the standard scale of fines, which was introduced in 1982. The amount equating to each level may be increased from time to time, allowing fine levels to maintain a sensible level relative to inflation. The current fine levels are shown below.

Standard scale of Fines

Level	Maximum Fine
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000

The Use of Mobile Phones and Other Devices Whilst Driving

It is a specific offence to use a hand-held phone, or similar device, when driving, incurring a £200 fixed penalty fine or up to £1,000 on conviction in court (£2,500 for drivers of goods vehicles, buses or coaches). Six penalty points will also be imposed on your licence, and while penalty points can mean higher insurance

costs, if you get six points within two years of passing your test, your licence will be revoked and you will need to re-sit the test. However, drivers can still risk prosecution (for failure to have proper control) if they use hands-free phones when driving.

**LICENSING TEAM
Discussion Format**

INFORMAL DISCUSSION

Date -----

with-----

1. Introduce staff present and job titles
2. The discussion is for the purpose of information gathering
3. Notes will be taken. The discussion will not be audio and/or video recorded. A copy of the notes will be provided on request.
4. The licensee is not under arrest and is free to leave at any time. If during this discussion an offence is admitted, officers may caution the licensee and stop the discussion so that a more formal interview may take place under caution at a later date.
5. The information gathered will be considered by the Head of Service, who may decide that the matter should be reported to the Licensing & Regulatory Committee or Sub-Committee for them to decide what action is appropriate, or the Head of Service may take action in consultation with the Chairman and Vice-Chairman without referral to Committee.
6. If the matter is reported to Committee or Sub-Committee you will be notified of the date of the meeting at least two weeks in advance. You will be asked to attend the meeting and may bring a representative with you.

Signed

Date