



Hackney Carriage and Private Hire “Fit & Proper” Person Policy

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1. INTRODUCTION

- 1.1. The Council is required by law to ensure that any person it licenses either as Hackney Carriage or Private Hire driver or proprietor, or Private Hire Operator, are “Fit and Proper”, or in other words “Safe and Suitable”.
- 1.2. The term “Fit and Proper” for the purposes of licensing is not legally defined. However, in assessing whether someone may be “Fit & Proper”, the Licensing Authority will consider and assess the following, along with any other relevant information:
 - a) Criminality;
 - b) Right to work;
 - c) Human rights;
 - d) DVLA driving licence, including period of holding driving licence;
 - e) Driving ability;
 - f) Medical fitness;
 - g) Disability awareness;
 - h) Knowledge of safeguarding and the prevention of child sexual exploitation;
 - i) Knowledge of relevant legislation and Council policy;
 - j) Communication skills - verbal and written;
 - k) The conduct, behaviour, and disposition of a person – including the conduct of a person making an application;
 - l) The ability of Private Hire Operators to ensure the business is operated and managed in a safe and professional manner whilst complying with relevant legislation and Council policy;
 - m) The previous licensed history of existing or former licence holders including any complaints made against them. This will include a check of all new and renewal applicants against the National Register of Refusals and Revocations (NR3);
 - n) Any other criteria which undermines public safety or the integrity of the applicant or licence holder
- 1.3. Additionally, when assessing fitness and propriety the following tests will be applied by the Council:
 - 1.3.1. **Drivers** – *‘Would I (as an Authorised Officer or member of the Licensing and Regulatory Committee, or other person charged with the ability to grant a driver’s licence) allow my son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom I care, get into a vehicle with this person alone?’*
 - 1.3.2. **Private Hire Operators** – *‘Would I (as an Authorised Officer or member of the Licensing and Regulatory Committee, or other person charged with the ability to grant a driver’s licence) be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?’*
 - 1.3.3. **Vehicle Proprietors** – *‘Would I (as an Authorised Officer or member of the Licensing and Regulatory Committee, or other person charged with*

the ability to grant a driver's licence) be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?'

- 1.4. This policy is the basis on which the Council will determine if a new applicant, or an existing licence holder, is or remains a "Fit and Proper" person. Existing licence holders are expected to comply with the elements of this policy throughout the duration of their licence while in effect.
- 1.5. Furthermore, this policy provides guidance to any person with an interest in Hackney Carriage and Private Hire licensing. In particular, but not exclusively:
 - a) Applicants for a driver, vehicle or Operator licence;
 - b) Existing license holders whose licences are being reviewed;
 - c) Licensing officers;
 - d) Members of the Licensing and Regulatory Committee;
 - e) Magistrates concerning the hearing of appeals against Council decisions

2. APPLICATION FOR HACKNEY CARRIAGE OR PRIVATE HIRE DRIVER'S LICENCE

Anyone wishing to apply for a Private Hire or Hackney Carriage driver licence should contact the Council to arrange an appointment to take a knowledge test. Once the test has been passed, you will then receive an application pack. During the application process the following original documentation must be inspected and found to be to the Council's satisfaction before an application will be accepted for processing:

- a) Fully completed and signed application form with the correct fee;
 - b) Documentation for the purposes of immigration check;
 - c) Full DVLA driving licence or other valid driving licence;
 - d) A completed Disclosure and Barring Service (DBS) enhanced level application form with original supporting documentation and correct fee;
 - e) A completed medical examination;
 - f) A valid Driving & Vehicle Standards Agency (DVSA) accredited Taxi/Private Hire driving assessment Pass Certificate;
 - g) Confirmation of passing the Council's knowledge test.
- 2.1 Prospective applicants must have held a full DVLA driving licence giving an entitlement to drive for at least 12 months immediately prior to the date of any application being made.
 - 2.2 Driving licences issued by another Member State of the European Union (EU) or one of the countries in the European Economic Area (EEA) are acceptable providing the applicant has held the licence for at least 12 months. (Following the UK's decision to leave the EU this entitlement may change and the Council reserve the right to request such documentation as is required for non-holders of a UK driving licence).

- 2.3 Holders of a non UK, EU/EEA driving licence will be required to have held a full driving licence for at least 12 months prior to application. Evidence of a full DVLA driving licence must be produced for inspection after 12 months of becoming resident in the UK.

3. PERIOD OF ISSUE OF A DRIVER'S LICENCE

- 3.1 Hackney Carriage and Private Hire driver licences will be issued for a period of up to 3 years with the following exceptions:
- a) Drivers who have a potentially serious medical condition.
 - b) Drivers aged 65 and above (require an annual medical).
 - c) New drivers who have yet to pass their disability awareness training.
 - d) Drivers who request a shorter period.
 - e) Drivers with a history of poor conduct (2 or more substantiated complaints within the previous 12 months).
 - f) Where a Sub-Committee has determined that a licence shall be granted for a shorter period
 - g) Where it is required under the Immigration Act 2016.
 - h) Other reasons not covered above where the Licensing Authority considers it appropriate.
- 3.2 In such cases, driver's licences will be issued for a minimum period of 12 months.

4. RELEVANCE OF CONVICTIONS AND CAUTIONS

- 4.1 Under the Rehabilitation of Offenders Act 1974, Private Hire and Hackney Carriage drivers are an exempt occupation, therefore all convictions, no matter how old and even if they are considered spent, can be taken into consideration when determining an applicant's fitness and propriety.
- 4.2 The Council have identified its guidance on the assessment of criminal convictions in its Hackney Carriage and Private Hire Licensing Policy, both for determining applications and also when considering convictions for existing license holders. This guidance is attached as Appendix A of this policy.
- 4.3 All convictions gained either in the UK or outside the UK from the age of 16 must be declared when making an application for a licence. Failing to disclose convictions which later come to light through the application process will be considered a dishonest act and may result in the application being refused.
- 4.4 An enhanced DBS disclosure application form must be submitted with every application for the grant of a new Hackney Carriage or Private Hire driver's licence. Vehicle proprietors who are not licensed drivers and applicants applying for a Private Hire Operator licence will be required to submit evidence of a basic DBS certificate.

- 4.5 No licence will be granted to any applicant until a DBS certificate has been received, and for driver applications, until a satisfactory check of the barred list has been conducted.
- 4.6 As stated within the Hackney Carriage and Private Hire Licensing Policy, and the associated licence conditions, licensed drivers will be required to gain a new enhanced DBS certificate every 3 years, while an annual basic disclosure will be required for vehicle proprietors and Private Hire Operators.
- 4.7 From 1st January 2023, it will be mandatory for all Private Hire and Hackney Carriage drivers to be signed up to the DBS online checking service and maintain continuous registration during the time in which they hold a driver's licence. The driver will be responsible for any associated fees.
- 4.8 As all drivers will be signed up to the DBS online update service, the Council will carry out a criminal record check every 6 months. The Council may carry out further checks if they have reasonable cause to do so.
- 4.9 In order to carry out an online check, the Council will require the following:
- (i) confirmation of ID in line with a DBS check.
 - (ii) original DBS certificate to an enhanced level including a check of the barred lists
 - (iii) consent form signed by the driver permitting the Council to carry out an online check.
- 4.10 It should be noted that if the online check shows that the licence holder has received any convictions or cautions since the issue of the DBS certificate then a new DBS certificate will have to be applied for and obtained. The licence holder will be responsible for any associated fees. The Council may suspend the Private Hire or Hackney Carriage driver's licence pending the receipt of the DBS certificate.
- 4.11 If the Council is unable to carry out an online criminal record check prior to the due date then notification will be sent to the driver so a new DBS certificate can be obtained. The driver's licence will be suspended if a satisfactory check cannot be carried out before the due date.
- 4.12 The licence holder must notify the Council immediately in writing if their subscription to the DBS online checking service lapses. The driver must then apply for a new DBS certificate. If the online check is due, then the driver's licence will be suspended until a satisfactory check can be carried out.
- 4.13 All new applicants and all existing licence holders will be required to obtain the required DBS certificate from the Council's recommended third-party provider.

Obtaining a Certificate of Good Conduct

- 4.14 The DBS cannot currently access criminal records held overseas except in a limited number of cases. Therefore an applicant who has lived in another Country within the last 10 years (from the date of their application) is required to submit a “Certificate of Good Conduct” (or similar) from each Country. This shall be in addition to the DBS disclosure.
- 4.15 This certificate will confirm an applicant’s “good conduct” or provide details of any convictions committed overseas. The certificate must be in English and the applicant will be responsible for any costs in obtaining it.
- 4.16 To obtain a Certificate of Good Conduct you may wish to contact your countries representative. The contact details for those countries that have a representative in the UK can be found on the GOV.UK website: www.gov.uk/government/publications/contact-an-embassy
- 4.17 Where an applicant is unable to provide a certificate they must explain in writing why and provide at least two written references (in English) from professional individuals and/or bodies who can confirm their conduct for their time in the country (the referee must not be a family member). The Council will consider each case on its merits. Particular consideration will be given to assess if the applicant has demonstrated that they have provided all the available information or made every effort to obtain the information.
- 4.18 Any applicant who has been granted or is awaiting a decision to be granted asylum or refugee status will **not** be required to produce a certificate from the country they are claiming asylum from. The applicant will, however, be required to obtain a certificate from any other country they have lived in within the last five years.

Convictions during any period of licence

- 4.19 The Council requires all licence holders who are interviewed, arrested, receive a summons or a postal requisition notice to report this fact to the Council within 48 hours. A representative may fulfil this requirement if the licence holder is unable to.
- 4.20 The Council requires all licence holders who are interviewed, arrested, charged or convicted of a sexual offence, offence involving dishonesty or violence or any motoring offence to report this information to the Council within 48 hours of being convicted or cautioned. The Council requires all licence holders who are subsequently convicted or cautioned for any other criminal offence during the period covered by their existing licence to report this information to the Council within 7 days of being convicted, or cautioned, or receiving a fixed penalty notice.

4.21 In the case of a deferred sentence, the penalty must be disclosed to the Council within seven days of sentencing. Any fixed penalty notice should be reported to the Council upon acceptance of the notice as opposed to when the driving licence has been updated.

5 POWERS

5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the Licensing Authority to suspend, revoke or refuse to renew a licence if:

- the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence;
- failure to comply with the provisions of the Town Police Clauses Act 1847;
- failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976;
- or any other reasonable cause.

5.2 The Rehabilitation of Offenders Act 1974 (as amended) allows the Licensing Authority to take into account all non-protected convictions recorded against an applicant or the holder of a Hackney Carriage or Private Hire driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. In accordance with this Act, all convictions, cautions, warnings and reprimands must be declared by the Applicant.

5.3 Under the provisions of Sections 51, 55 and 59, of the Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority must be satisfied that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire driver's licence and/or Private Hire Operator'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 Licensing Authority will consider:

- a) How relevant the offence(s) are to the licence being applied for
- b) How serious the offence(s) were/are
- c) When the offence(s) were committed
- d) The date of the alleged offence/conviction
- e) Circumstances of the individual concerned
- f) Sentencing options of the court/Sentence imposed by the court
- g) The applicant's age at the time of conviction/charge
- h) Whether they form part of a pattern of offending
- i) Any other character check considered reasonable (e.g. personal references)
- j) 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.

- 5.4 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other licensing authorities, and information disclosed by the police.
- 5.5 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. (Section 57(3) 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 and may be prosecuted under the Fraud Act 2006.
- 5.6 For renewal applications and current licence holders the guidance will not be applied retrospectively. 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.
- 5.7 Any offences not covered by this Policy, namely those referenced in Appendix A will not prevent the Council from taking into account the offences.

Immediate revocation/suspension of driver or Operator licence

- 5.8 If the Council decides to suspend or revoke a driver's or Operator's licence, it will then have to consider whether the suspension or revocation should take immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.9 The Council only has the power to resolve that the suspension or revocation will take immediate effect if it appears that the interest of public safety requires the suspension or revocation of the licence to have immediate effect. In 'the interests of public safety' is not defined and is for the Council to determine. However, regard will be had to any risks to public safety arising from concerns about the licence-holder's driving standards, his character including but not limited to dishonesty, violent behaviour, involvement in drink or drugs, inappropriate sexual conduct, any relevant previous convictions and any other matters the Council may deem relevant.
- 5.10 The overriding consideration shall always be the safety and protection of passengers and the general public.
- 5.11 Matters such as unemployment and home circumstances should not be taken into account when determining whether the suspension or revocation will take place immediately and therefore shall not outweigh the public safety factor.
- 5.12 Where the Council has decided that a licence-holder is no longer "Fit and Proper" to hold a licence, for reasons of public safety, the presumption will be that the revocation of the licence shall have immediate effect.

- 5.13 If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, the Council will give notice to the driver, which includes a statement to that effect and an explanation why, the suspension or revocation takes effect when the notice is given to the driver or Operator.

6. DVLA DRIVING LICENCE RECORD

Applicants

- 6.1 An applicant's DVLA driving record will be taken into account. The Council will consider the nature and volume of any motoring offences when considering applications. Any motoring convictions will be considered in accordance with the Council's Hackney Carriage and Private Hire Licensing Policy relating to the Relevance of Convictions.
- 6.2 Any offences recorded will raise doubts about an applicant's fitness and propriety and may impact on the applicant's potential to be deemed "Fit and Proper".
- 6.3 Applicants with multiple or more recent convictions may either have their application determined by an Authorised Officer or be referred to the Licensing and Regulatory Committee for determination.
- 6.4 In assessing whether the applicant is a "Fit and Proper person" to hold a licence, the Council will consider each case on its own merits.

Existing drivers

- 6.5 It will be necessary for licence holders to provide a DVLA driving licence check code to the Council, which enables the Council to obtain a driver's complete driving history from the DVLA upon initial application (renewals) and annually during the period of the licence.
- 6.6 Hackney Carriage and Private Hire drivers are professional drivers charged with the responsibility of carrying the public in safe and suitable conditions. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant (renew) of a licence or necessitate the suspension or revocation of a licence.
- 6.7 However, existing drivers attaining 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. Consequently, a review of the licence holder's "Fit and Proper" person status by an Authorised Officer, or by the Licensing and Regulatory Committee may be required in order to determine whether they remain a "Fit and Proper" person to continue to hold a licence.
- 6.8 Any motoring convictions will be considered in accordance with the Council's Hackney Carriage and Private Hire Licensing Policy relating to the Relevance of Convictions and the Council will consider each case on its own merits.

Penalty points on DVLA Licence

- 6.9 Certain driving offences can attract a punishment of penalty points endorsed on a DVLA driving licence.
- 6.10 In accordance with the Hackney Carriage and Private Hire Licensing Policy, the licence holder shall, within 48 hours, disclose to the Council, in writing or by email:
- a) Details of any interview, arrest, charge, summons, postal requisition notice, caution or conviction, by the Police in respect of any matter.
 - b) Details of the offence for which the licence holder has been convicted, including the offence, date and venue of the conviction, and the penalty imposed.
 - c) Details of any penalty points gained or the suspension or revocation of their DVLA driving licence as a result of a motoring offence. Any fixed penalty notice should be reported to the Council upon acceptance of the notice as opposed to when the driving licence has been updated.
- 6.11 The Council will consider these penalty points once they reach the following limits:

9 Penalty Points endorsed on a DVLA Driving Licence.

- 6.12 Once a driver has attracted 9 points within a rolling 3 year period they will receive a formal written warning from the Council with regards to their driving and the standards expected from them. A DVSA driving test will also need to be undertaken within 1 month of the 9 points being confirmed. The cost of the test will be met by the driver. Failure to pass the DVSA test within 1 month will result in the driver's licence being suspended until a pass has been achieved and the certificate provided to the Council.

12 penalty points endorsed on a DVLA Driving Licence

- 6.13 Once a driver has attracted 12 or more points within a rolling 3 year period they are likely to be disqualified by the Magistrates Courts under the 'totting up' system.
- 6.14 Any licensed driver who has been disqualified from driving by the Magistrates Court under the 'totting up' system will automatically have their driver's licence revoked.
- 6.15 The accumulation of 12 or more DVLA driving points within a rolling 3 year period will lead the Council to consider whether that person is a "Fit and Proper" person. Consequently, a review of the licence holder's "Fit and Proper" person status by an Authorised Officer, or by the Licensing and Regulatory Committee may be required in order to determine whether they remain a "Fit and Proper" person to continue to hold a licence.

6.16 Any motoring convictions will be considered in accordance with the Council's Hackney Carriage and Private Hire Licensing Policy relating to the Relevance of Convictions and the Council will consider each case on its own merits.

7. NATIONAL REGISTER OF TAXI LICENCE REFUSALS AND REVOCATIONS (NR3)

7.1 The Council receives and provides information to the National Register of Taxi Licence Refusals and Revocations (NR3); a mechanism for licensing authorities to share details of individuals who have had a Hackney Carriage or Private Hire driver's licence revoked, or an application for one refused. This is necessary for assessing whether an individual is a "Fit and Proper" person to hold a driver's licence.

7.2 All new applications for the grant of a Hackney Carriage or Private Hire driver's licence will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the Council will seek further information about the entry on the register from the Licensing Authority who recorded it. Any information received because of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.

7.3 The Council will provide information to NR3 in the following circumstances:

- a) When a Hackney Carriage or Private Hire driver's licence application is refused.
- b) When a Hackney Carriage or Private Hire driver's licence is revoked.

7.4 Information will be retained on NR3 for a period of 25 years.

7.5 Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision, or receipt of information of or under NR3 are necessary to the Council's statutory licensing functions of ensuring that all drivers are "Fit and Proper" to hold the applicable licence.

8. DVSA DRIVING TEST

8.1 All new applicants applying for a Hackney Carriage or Private Hire driver's licence will be required to take a DVSA accredited driving assessment for Private Hire & Hackney Carriage Drivers. Applicants will need to contact the provider directly to reserve a test date.

8.2 No driver's licence will be granted until a pass certificate for a DVSA accredited test has been received.

9. MEDICAL EXAMINATIONS

- 9.1 All applicants applying for a Hackney Carriage or Private Hire driver's licence must satisfy the Council regarding their medical fitness and fitness to drive.
- 9.2 All new applicants are required to undergo a medical as set out in the Council's medical form prior to the initial grant of a driver's licence.
- 9.3 Any ongoing DVLA notifiable medical conditions that are known to an applicant when applying for a driver's licence must be disclosed to the Council at the time of application.
- 9.4 Any existing licensed driver is required to inform the Council immediately upon diagnosis of any DVLA notifiable medical condition, or within 72 hours if they have an illness or injury that affects their fitness to drive.
- 9.5 A medical will be required for all licensed drivers every 5 years up to the age of 65.
- 9.6 From the age of 65 all licensed drivers will be required to undergo a medical annually. There will be no upper age limit.
- 9.7 An annual medical review will also be required by drivers who have insulin treated diabetes. The diabetic review will be carried out by the driver's own doctor or hospital consultant and shall be required each year at the time of renewal. The Council reserves the right to require similar annual reviews for other medical conditions when deemed appropriate, at their discretion.
- 9.8 Where there is reasonable doubt over a driver's fitness, the Council may require the driver to undergo a medical examination by a specified registered medical practitioner at any time.
- 9.9 The licence holder will be responsible for the payment of all fees required for any medical examination.
- 9.10 Any failure by licensed drivers to inform the Council of any changes in their health may result in proceedings being taken which may include the suspension or revocation of their driver's licence.

10. DISABILITY AWARENESS TRAINING

- 10.1 To ensure compliance with the Equality Act 2010, any driver wishing to licence or drive a Wheelchair Accessible Vehicle will also be required to undertake disability awareness training. The training will be provided by an external provider and will be arranged by the applicant. A fee will be payable. If the applicant has undertaken an equivalent training course, they will not need to complete the training if an original certificate has been provided to the Council.

10.2 New and existing drivers who wish to licence a Wheelchair Accessible Vehicle for Private Hire or Hackney Carriage use are required to have completed the disability awareness training prior to licensing the Wheelchair Accessible Vehicle.

11. SAFEGUARDING AND CHILD SEXUAL EXPLOITATION AWARENESS TRAINING

11.1 The Council requires all drivers to undertake safeguarding awareness training. The training will be provided by the Council's approved training partner and will cover the topics of safeguarding and CSE awareness. The cost of the training is to be paid directly to the provider by the applicant.

11.2 For newly licensed drivers, training must be completed within 6 months of being licensed. Any driver who fails to meet this requirement may have their driver's licence suspended until the training is completed.

11.3 Every licence holder will have to complete Safeguarding refresher training every three years. An application to renew a driver's licence will not be determined until the refresher training has been completed. A copy of the certificate confirming that the training has been completed must be submitted with the renewal application.

12. KNOWLEDGE TEST

12.1 All applicants for a Hackney Carriage or Private Hire driver licence will need to take and pass the Council's knowledge test as part of the application process.

12.2 The fee will be paid prior to each test taken. The test fee is non-refundable and subject to regular review.

12.3 The knowledge test will consist of multiple choice questions on Hackney Carriage and Private Hire legislation, the Highway Code, the Council's byelaws and conditions of licence. The test may also include the writing of a receipt, maths questions and important locations in the District.

12.4 Applicants for a Hackney Carriage driver's licence will also answer further questions on the shortest routes between given destinations within and outside of the District.

12.5 An applicant will require a pass mark of 80% for the multiple choice questions and 80% for the written receipt. Applicants will be able to take the test up to a maximum of 3 times in total should the required pass mark not be achieved on the 1st and 2nd test.

- 12.6 If an applicant fails to reach the required pass mark on their 3rd attempt they will then be unable to take any further test for a period of 12 months from the date the last test was taken.
- 12.7 There is no formal oral test but all applicants will be assessed on their ability to hold and carry on a conversation in English. The assessment will be made from conversations held during the applicant's, knowledge test and interaction with Officers during the application process. Applicants who are unable to communicate in English at a suitable level will not be considered for a licence until a formal English language course has been taken and passed.
- 12.8 The Licensing Team Leader shall be authorised to amend the administration of the knowledge test and to add/delete questions to reflect any changes in legislation or local issues.
- 12.9 The administration of the knowledge test will be transparent, and all applicants will be made aware of the current criteria and applicable fees on application.
- 12.10 Applicants who are applying for a restricted Private Hire driver licence to undertake home-to-school transportation only are exempt from the requirement to undertake a knowledge test.

13. CODE OF GOOD CONDUCT

- 13.1 It is expected that drivers, vehicle proprietors, and Operators behave and conduct themselves at all times in a professional manner so as to present a professional image to the public.
- 13.2 The standards expected are set out in the Code of Good Conduct, included in this policy document at Appendix B.
- 13.3 Failure to comply with any aspect of the Code of Good Conduct may result in enforcement action such as advice or warnings being given by an Authorised Officer. Repeated or serious breaches may lead to more serious consequences including, non-renewal, suspension, or revocation of licences.

14. AMENDMENTS TO THE POLICY

- 14.1 Any substantial amendment to this Policy will only be implemented after further consultation with the trade and other relevant parties. All substantial amendments must be authorised by the Elected Members of the Licensing and Regulatory Committee.
- 14.2 For the purpose of this section, any substantial amendment is defined as one that:
- a) will have a significant financial impact on licence holders or the public, or
 - b) will have a significant procedural impact on licence holders or the public, or

- c) may not be perceived by the trade or the public to be consistent with the published objectives detailed in this Policy.

14.3 Any minor amendment to this Policy may be authorised by the current Group Services Manager and approved by the Chairman of Licensing and Regulatory Committee or its equivalent Policy Committee. For the purpose of this section, any minor amendment is an amendment not defined as substantial in section 14.2 of this Policy.

15. RIGHT TO APPEAL

15.1 The Local Government (Miscellaneous Provisions) Act 1976 details an applicant’s right of appeal.

15.2 In general terms, where an applicant is aggrieved by the Council’s decision to refuse to grant, or refuse to renew a licence, or the Council’s decision to suspend or revoke a licence, the applicant has a right of appeal to the local Magistrates’ Court.

15.3 Any appeal must be lodged at the Magistrates’ Court within 21 days of the applicant receiving written notification of the Council’s decision. The appeal must state the grounds upon which the appeal is based.

16. CONTACT DETAILS

16.1 Should you wish to contact the Licensing department, please contact:

By post:

Licensing
Blaby District Council
Council Offices
Desford Road
Narborough
Leicester
LE19 2EP

By telephone:

0116 272 7782

By email:

Licensing@blaby.gov.uk

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3	Licensing & Regulatory Committee	28.2.2022	1.4.2022

APPENDIX A

Policy for assessing Convictions for determining the Fitness and Propriety of applicants.

This policy aims to provide guidance to any person with an interest in Public and Private Hire licensing. In particular, but not exclusively:

- Applicants for Operators' licences
- Existing licensed Operators whose licences are being reviewed/renewed
- Licensing Officers
- Members of the Hackney Carriage and Private Hire Regulatory Committee (or other relevant decision making body)
- Magistrates hearing appeals against local authority decisions
- Police Officers

Thereby providing transparency and consistency, in accordance with the principles of good enforcement and relevant Regulatory Compliance Codes.

Where Licensing Officers have delegated powers to grant or refuse licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Hackney Carriage and Private Hire Regulatory Committee (or other relevant decision-making body). Whilst Officers and the Committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, they may depart from these guidelines.

1. General

1.1. For the purposes of this Policy, a conviction is defined as:

- A sentence imposed by a Court;
- A formal caution;
- A fixed penalty notice;
- Community resolution.

1.2. It should be noted that for the purposes of this policy convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.

1.3. This Policy is the baseline for acceptability, and it shall only be departed from in exceptional circumstances. Where it is appropriate for the Council to depart from this policy, clear and compelling reasons will be given for doing so. The purpose of this policy is to formulate guidelines, consistent with national guidance, which detail the Council's position on the relevance of convictions and cautions in respect of applications for the grant of new licences, and the renewal of existing licences, for Private Hire driver and Operator licences. As the Council has the power to suspend or revoke a licence this policy will also relate to the consideration of convictions and/or cautions received during the course of a licence.

- 1.4. In all the cases, the Council will consider the conviction or behaviour in question and the weight that should be attached to it. Each case will be determined on its own merits having regard to this Policy.
- 1.5. The Local Government (Miscellaneous Provisions) Act 1976 states that the Council may grant a licence only if it is satisfied that the applicant is a "Fit and Proper" person.
- 1.6. "Fit and Proper" means that the individual (or in the case of a Private Hire Operator's licence, the limited company together with its directors and secretary, or all members of a partnership) is 'safe and suitable' to hold the licence.
- 1.7. In determining safety and suitability, the Council is entitled to take into account all matters concerning the applicant/s and are not only concerned with that person/s behaviour whilst working in the Hackney Carriage or Private Hire trade.
- 1.8. It is important to recognise that matters which have not resulted in a criminal conviction, (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 1.9. Restorative justice and other criminal disposals are increasingly used by the police as a less formal way of dealing with issues and as an alternative to the criminal disposals tend to be applied in less serious cases or for first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a "Fit and Proper" person.
- 1.10. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 1.11. The overriding consideration will be the protection of the public and all other matters, including unemployment, shall be secondary to the public safety factor.
- 1.12. In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

2. Crimes resulting in death

- 2.1. Where an applicant or licensed driver 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.

3. Exploitation

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

4. Offences involving violence against the person

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

5. Possession of a weapon

- 5.1. 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.

6. Sexual offences

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

7. Dishonesty

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

8. Drugs and Alcohol

- 8.1. If 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 ten years have elapsed since the completion of any sentence imposed.
- 8.2. If 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 at their own expense to demonstrate that they are no longer using controlled drugs.
- 8.3. An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of convictions for drunkenness, including drunk and disorderly or drunk and incapable, could indicate a medical problem necessitating critical examination and refusal of a licence.

8.4. In addition, the applicant will normally be required to show a period of five years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

9. Discrimination

9.1. 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.

10. Motoring Convictions

10.1. 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.

10.2. 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 Hackney Carriage or Private Hire vehicle driver licence providing the authority considers that the licensee remains a "Fit and Proper" person to retain a licence.

11. Drink driving/driving under the influence of drugs

11.1. 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.

12. Using a hand-held device whilst driving

12.1. 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.

13. Hackney Carriage and Private Hire motoring convictions and offences

13.1. Where an applicant has a conviction for an offence concerned with or connected to Hackney Carriage or Private Hire activity (excluding vehicle use), a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

14. Reapplication

14.1. Where an applicant has previously had a licence revoked by the Council the Authority will not, save in exceptional circumstances, consider any further application from the applicant for a period of three years from the date of the Authority's decision or, if that decision was appealed against and the appeal was

dismissed, abandoned, or otherwise failed, from the date of the dismissal, abandonment or other failure of the appeal, whichever is the later.

APPENDIX B

Code of Good Conduct

Overview

Hackney Carriage and Private Hire drivers, vehicle proprietors, and Private Hire Operators are in a position of trust in respect of the safety and welfare of their passengers and customers.

The Licensing Authority, through its Licensing department and Committee Members, have to ensure that all drivers are “Fit and Proper” to undertake their work as drivers and that they also act as ambassadors for the district. It is essential that the Council, and all licensees work together in order to ensure members of the public are treated with dignity and respect, including reporting any concerns.

On occasions, licensees – especially drivers, may become aware of, or have suspicions that, their passengers may be the victim of abuse, neglect or exploitation either sexual or otherwise, or at risk of becoming a victim. In addition, drivers themselves may be accused of misconduct or inappropriate behaviour through the misinterpretation of the driver’s actions or conversation.

Therefore, Blaby District Council has introduced this **Code of Good Conduct** which is aimed at providing the best possible service by protecting both passengers and licence holders. This ensures that concerns, suspicions of abuse, neglect or exploitation can be reported appropriately and minimise the risk of misunderstandings. All licence holders are required to comply with this Code of Good Conduct. Failure to do so may result in enforcement action taken by the Council. In the event of a repeated and/or serious failure to comply, consideration will be given to the suspension or revocation of respective licences.

Code of Good Conduct for Licensed Drivers, Operators, and vehicle proprietors

It should be noted that the Code does not override any obligations that are detailed in legislation, licence conditions or contractual obligations, such as County Council contracts.

All Licensees shall:

- a) Act in a professional manner at all times;
- b) Treat passengers and other road users with respect;
- c) Keep relationships and conversation with passengers on an appropriate, professional basis;
- d) Respect all individuals – regardless of age, disability, gender, sexual orientation, gender reassignment, religion/belief, language spoken, race or ethnicity;
- e) Pay attention to personal hygiene and dress so as to present a professional image to the public. This is further defined below;
- f) Be polite, helpful and fair to passengers, particularly disabled passengers whose mobility may be restricted;
- g) Drive with care and due consideration for other road users and pedestrians;

- h) Comply with all Traffic Regulation Orders and directions at all times;
- i) Ensure that there is no smoking in the vehicle at all times;
- j) Fulfil their responsibility to ensure compliance with common sense and any legislation regarding the length of working hours;
- k) undertake a vehicle check, i.e. lights, tyres & pressures, engine fluids, prior to starting shifts to ensure roadworthiness;
- l) Undertake suitable training.

And be aware of:

- a) Safety and well-being of passengers must be paramount;
- b) The importance of the use of appropriate language;
- c) Be aware of the vulnerability of children and adults;
- d) Be aware of passengers with special needs;
- e) Any instruction given about the care or first aid requirements of a passenger;
- f) Personal beliefs and standards, including dress and religion;
- g) Passengers misreading situations;
- h) The use of social networking sites such as Facebook and Twitter. These are public websites and therefore passengers conveyed may access a Driver's site. Ensure you use the appropriate privacy settings to avoid passengers viewing your social media sites.

Licence holder should never:

- a) Become over-friendly or unprofessional in any way with passengers or engage in any form of inappropriate relationship.
- b) Inappropriately touch a passenger.
- c) Administer medication unless a specific request has been made by the hirer.
- d) Photograph or video passengers in your care unless used in compliance with data protection legislation and any relevant codes of practice.
- e) Engage with passengers through social networking sites other than for clear and obvious business connections.
- f) Phone or send text messages to passengers other than directly concerning the hiring of your vehicle.
- g) Swear, make personal/humiliating comments, or tell inappropriate jokes.
- h) Offer cigarettes or gifts of any sort.
- i) Stop anywhere other than the specified pick up/drop off points unless requested by the hirer.
- j) Use a hand held mobile phone whilst driving.
- k) Consume alcohol before or at any time whilst driving or being in charge of a hackney carriage or Private Hire vehicle.
- l) Drive while having used illegal or misused legal drugs.
- m) Act contrary to the advice of a medical practitioner.

Safeguarding:

If any licence holder has concerns or suspect abuse, neglect or exploitation of a passenger or customer, then these should not be ignored. If there are any suspicions or concerns about the way someone is being treated it is important to report this. The safeguarding of children and vulnerable adults is everybody's responsibility. Remember that your information could help a vulnerable child or adult.

If a driver is working under a Leicestershire County Council contract then their guidance and procedures should be followed alongside any training received. Otherwise the following procedures should be complied with in reporting any information or suspicions you may have of anyone being subject to abuse, neglect or exploitation:

Action to be taken if you have concerns:

- If your concerns are of an urgent matter or you believe that a crime has been committed and there is an immediate risk of danger, telephone the police on 999.
- If you are suspicious or are concerned that a child or an adult is suffering or is likely to suffer significant harm, including any form of mistreatment, abuse, neglect or exploitation but it is not of an urgent matter, please call Leicestershire Police on 101.

Responsibility to Residents

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

- a) not sound the vehicle's horn illegally or repeatedly;
- b) keep the volume of audio and communications equipment to a reasonable level;
- c) switch off the engine if required to wait or on ranks; and
- d) take all reasonable measures to avoid disturbance to residents in the neighbourhood.

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

- a) queue in an orderly manner and proceed along the rank in order and promptly; and
- b) remain in the vehicle or in close proximity of the vehicle.

At Private Hire Operator offices a licence holder shall:

- a) not allow their audio or communications equipment to cause disturbance to residents of the neighbourhood; and
- b) take reasonable action to avoid disturbance to residents of the neighbourhood which might arise from the conduct of their business.

Driver Dress Code – Guidance

The Authority is committed to promoting the professional image of the trade and it considers that drivers should conform to a minimum standard of dress, in order to raise and maintain the profile of the licensed trade.

The suitability of a drivers dress will be considered on a case by case basis. The following list of clothing is a guide only and should not be considered to be exhaustive.

The following items of clothing are not considered to present a professional image and therefore must never be worn:

- Beach type footwear (e.g. Flip flops)
- Baseball caps or 'hoodies'
- Tracksuits or shell suits or components of
- Swim shorts / clothing
- Sports shorts
- Sports shirts or replica sports shirts
- Unclean or damaged clothing or footwear
- Items of clothing with 'offensive' or 'suggestive' words, logos or graphics
- Any item of clothing resulting in an individual not being able to establish the identity of the driver (referencing the drivers ID card)