

# HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

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**COTSWOLD**  
District Council

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# General Introduction

The Council has the responsibility to regulate and control all operators, drivers and vehicles used for carrying passengers for hire and reward within the Cotswold District under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

This document includes Cotswold District Council's Policy and Conditions with regard to Hackney Carriage (Taxis) and Private Hire licensing and will provide guidance to applicants, interested parties, Officers and Members on the approach the Council will take on Hackney Carriage and Private Hire licensing matters. Additionally, this document provides guidance on legislation and other issues that have an impact on Hackney Carriage and Private Hire licensing.

For the purposes of this document, Hackney Carriage vehicles will be referred to as Hackney Carriages.

## **Objectives**

In setting out its Policy, the Council seeks to promote the following objectives:-

- a) Safety and health of drivers and the public;
- b) Vehicle safety, comfort and access;
- c) To prevent crime and disorder and protect the public.

## **Future Amendments to Policy and Conditions**

All licences are granted subject to compliance with the Policies and Conditions contained within this document.

This document was approved by the Planning and Licensing Committee on 8 September 2021 and came into force on 1 October 2021.

This document may be amended and republished from time to time to take account of changes in legislation and minor amendments. However, any such changes or amendments that have significant impact on the Policies and Conditions in this document shall first be considered by the Planning and Licensing Committee for approval. Matters that would be considered significant include those that could have a financial or negative impact on licence holders or new applicants or that affect the convenience, safety or comfort of passengers.

## **General Differences between Hackney Carriages and Private Hire**

There are two types of vehicle that carry fare paying passengers that are licensed by Cotswold District Council.

## Hackney Carriages

- Can be flagged down and use designated ranks
- Can be pre-booked
- Hackney Carriages must have a meter and the maximum tariff (fare) is set by the Council.
- Hackney Carriages must display a roof sign

## Private Hire

- Must be booked in advance of a journey.
- The booking must be made through a licensed Private Hire operator
- The fare is agreed in advance between the operator and the customer

## Maximum Number of Passengers

The maximum number of passengers that a Hackney Carriage or Private Hire vehicle can be licensed to carry is 8.

Any vehicles used for hire and reward that carry more than 8 passengers must be licensed by the traffic commissioners as a public service vehicle <https://www.gov.uk/psv-operator-licences/overview>

## Licences issued by Cotswold District Council

There are five types of Licence issued by Cotswold District Council.

### 1. Dual Drivers Licence

This is a licence that allows you to drive both Hackney Carriage and Private Hire vehicles. This licence is issued for 3 years.

### 2. Private Hire Drivers Licence

This licence allows you to drive a Private Hire vehicle only. This licence is issued for 3 years.

### 3. Private Hire Operators Licence

If you take bookings for a Private Hire business, you must hold a Private Hire operator's licence. This licence is issued for 1 or 5 years.

### 4. Hackney Carriage Vehicle Licence

You must have a Hackney Carriage vehicle licence for each Hackney Carriage you own. The licence will be granted for 1 year only.

### 5. Private Hire vehicle Licence

You must have a Private Hire vehicle licence for any vehicle that you use for Private Hire. A Private Hire vehicle must be operated under a Private Hire operator licence. The licence will be granted for 1 year only.

## Application Forms

Application forms and associated documents are available from the Council's website [www.cotswold.gov.uk](http://www.cotswold.gov.uk)

### How can I pay?

- **By Post** - payment by cheque made payable to "Cotswold District Council" and sent to Licensing, Environmental and Regulatory Services, Trinity Road, Cirencester GL7 1PX
- **By Telephone** - Customer Services can be contacted on (01285) 623000 and the team will take card payment from you
- **Online** - [www.cotswold.gov.uk/makeapayment](http://www.cotswold.gov.uk/makeapayment)

### Renewals

The Council does not have a legal obligation to notify you when your licence is due to expire. **Please ensure that you are aware of the expiry date and that you submit your renewal application at least 7 days before expiry to ensure that the application is processed in time.**

### Refunds

No refunds are issued for any Hackney Carriage and Private Hire licences.

### Right of Appeal

With two exceptions there is a right of appeal to the Magistrates Court in relation to driver, vehicle and operators licences for the following:

- An application for a new licence, or renewal of a licence, is refused by the Council
- An existing licence is suspended or revoked by the Council
- Any conditions imposed on the licence

The appeal must be lodged **within 21 days** of the decision being notified to the applicant or licence holder.

### The exceptions are:

- The right of appeal against the refusal to grant or renew a Hackney Carriage vehicle licence is to the Crown Court
- Where the Council suspends a Hackney Carriage or Private Hire vehicle licence under section 68 (immediate suspension in a situation where, on inspection of the vehicle, the Police or Council are not satisfied to the fitness of the vehicle or accuracy of the meter) there is no right of appeal.

## Hackney Carriage and Private Hire Drivers

### 1. Hackney Carriage and Private Hire Driver (Dual Driver) Application Requirements

**The following apply to Dual Driver Licences and Private Hire Driver Licences.**

The dual driver licence permits you to drive both Hackney Carriages and Private Hire vehicles. The Private Hire driver licence permits you to drive a Private Hire vehicle only.

#### 1.1 New Application

You must have held a full valid driving licence for at least 12 months, authorising you to drive a motor car in the UK.

You must be 18 years of age or over.

An application cannot be granted unless the Council is satisfied that you are a 'fit and proper person' to hold a Hackney Carriage or Private Hire driver licence. There is no judicially approved test, however, when determining whether a driver is 'fit and proper', the Council will consider, amongst other things, the applicant's relevant skills, knowledge, experience, qualifications, conduct, medical fitness, criminal record and any previous history as a licence holder.

**If you have criminal convictions you may wish to wait until the Council has considered your criminal conviction and DVLA conviction history before undertaking the medical or driver assessment as any fees incurred will not be refunded should the Council decide that you are not a 'fit and proper person' in relation to offences.**

You are required to notify the Council of any convictions, cautions, fixed penalties received or any court cases pending during the application period (i.e. the time between the application being submitted and the licence being granted).

To make a new application you must submit the following (for information on how to obtain these please visit the driver application section of the website):

- **Application form**
- **Application fee**
- **Passport size photograph**, recently taken and clearly showing your full face uncovered, without sunglasses or hat
- **Valid DVLA driving licence**, authorising you to drive a motor car in the UK, showing your current home address
- **DVLA check code**
- **Disclosure and Barring Service (DBS) Enhanced Criminal Convictions Certificate** which is registered for the online update service prior to licensing with the Council. If this certificate has not been processed by the Council, the original certificate must be seen along with proof of the DBS Online Update Service registration. The DBS certificate must specify 'Other Workforce', Child and Adult barring list information.

- In the interests of public safety, a licence is unlikely to be granted to any individual that appears on either barred list. Please see our convictions policy in Annex 2 for further details.
- **Satisfactory Group 2 medical certificate** completed by your own General Practitioner or a medical practitioner that has access to your medical records. A medical certificate will not be accepted if it is dated more than 4 months prior to submitting the application. All costs associated with the medical certificate are met by the applicant and paid direct to the medical practitioner.
- **Evidence of successful completion of a Driving Assessment** through one of Cotswold District Council's recognised providers. Assessment Certificates will not be accepted if over 12 months old.
- **Evidence of successfully passing a Safeguarding Training Course** as specified by Cotswold District Council.
- **Evidence that you have passed a knowledge test.** The knowledge test is an examination held at the Council Offices. Please see Annex 3 for details about the Knowledge Test.
- **A right to work check under the Immigration Act 2016 will be carried out before your licence is issued.**
- **English Proficiency qualification** (see 2.10)

### **Additional Application Requirements for Foreign Nationals and Persons That Have Resided Outside of England, Wales and Republic of Ireland.**

The Council must be satisfied that you are a 'fit and proper person'.

The DBS Criminal Record Check covers England, Wales and Republic of Ireland. The Council needs to take account of any offences committed outside these countries. If you are a foreign national or are a person who has resided outside of England, Wales and The Republic of Ireland, you must provide the following:

- DBS Enhanced Criminal Record Disclosure Certificate as detailed in new application requirements (unless you have only just arrived in this country). The DBS Enhanced Criminal Record Disclosure will show any convictions that have been committed in the UK.
- Where any applicant has been resident abroad at any time from the age of 18 prior to an application they must provide a Certificate of Good Conduct, a Criminal Record Check or similar document from each and every country within which they have been resident. Residency for these purposes is considered by this Licensing Authority as where the person has lived in a country for longer than 6 months in a given calendar year. Where this Certificate has been produced in a non-English language, the applicant is required to produce a translation of the Certificate from the Embassy or Consulate of that country and provide the original document. An exception might be permitted where a refugee has been allowed to stay in the UK and has been given asylum, and this exception will only apply to that country. <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants> will assist you further in obtaining this document.
- Driving Licence that permits you to drive in the UK for vocational purposes (driving as a job). If you hold an EC/EEA driving licence the Council will normally expect you to convert this to a GB driving licence prior to making your application.

## **1.2 Renewal Application**

A renewal application must be completed prior to the expiry date of your current Hackney Carriage and/or Private Hire driver licence. If you do not renew your licence before your licence expires you will become unlicensed. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

To make a renewal application you must submit:

- Renewal application form
- Fee
- Valid DVLA driving licence authorising you to drive a motor car in the UK showing your current home address
- DVLA check code

**Renewals will not be processed if there are any DBS and medicals certificates outstanding.**

Any previous information that has not been disclosed on your new or renewal application (for example speeding, criminal convictions etc.) will result in your licence being reviewed by the Licensing Sub-Committee.

## 2. Hackney Carriage & Private Hire Drivers (Dual Driver) Cotswold District Council Policy

### 2.1 Duration of Licence

The Licence shall remain in force for a period of 3 years. The Council retains the right to only issue a licence for 1 year duration if appropriate.

### 2.2 Medical Criteria

You must provide a satisfactory Group 2 medical certificate completed by your own General Practitioner or a medical practitioner that has access to your medical records at the following times:

- On application
- Every five years between the ages of 45 – 65 years
- Every year from the age of 65

All costs associated with the medical certificate are met by the applicant.

A recent satisfactory Group 2 medical examination for a PCV or HGV may be acceptable as an appropriate medical. This is, however, at the discretion of the Licensing Officer and you must be able to provide sufficient evidence that the medical was completed by your own General Practitioner or a medical practitioner that has access to your medical records and the DVLA have determined you are fit to drive a PCV/HGV. This certificate must be no more than 4 months old.

The Group 2 standard precludes the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of 'medical criteria' to obtain a licence to drive category C1 vehicles. The Council will apply those standards.

You **must** notify the Council immediately if you develop any health or medical issues that may affect your fitness as a driver. The Council may require you to produce medical evidence of continuing fitness to drive during the period of the licence.

### 2.3 Requirement to return Driver Badge

If you no longer intend to be a Hackney Carriage or Private Hire driver, or your badge is suspended or revoked, you must return your licence and badges to the Council **within 7 days**.

### 2.4 Notification of Changes

If you move house or change your name, or if any other details included on the application form change, you must write and let the Council know **within 7 days**. If you cease to work for a Hackney Carriage proprietor or Private Hire operator or change to work for another Hackney Carriage proprietor or Private Hire operator you must write and let the Council know **within 7 days**.

## 2.5 Convictions, Cautions and Fixed Penalties

Licence holders are required to notify the Licensing Authority **within 48 hours** any of the following:

- an arrest and release, charge or conviction of any sexual offence
- any conviction, caution, fixed penalty or court case pending
- any motoring offence including speeding fines

An arrest for any sexual offence, any offence involving dishonesty or violence and any motoring offence is likely to result in a review by the issuing authority as to whether the licence holder is fit to continue.

Please also refer to the relevance of convictions policy at Annex 1 for more information on the relevance of other convictions, arrests, cautions and criminal investigations.

It is a requirement of your driver licence that you must notify the Police that you are a licensed driver upon arrest or whilst being Interviewed Under Caution.

## 2.6 DBS Check (Disclosure and Barring Service) criminal history

It is a requirement as a licensed driver to have a satisfactory criminal check (DBS) in place at all times. The DBS certificate must be registered for the DBS Online Update Service and the registration must be kept active at all time. It is the responsibility of the licence holder to ensure that their subscription is paid and that their card details remain active with the DBS. If a subscription lapses, the driver licence will be suspended until another DBS certificate has been issued and the DBS Online Update Service has been verified by the Licensing team.

The DBS certificate that is used for the Online Update Service registration must be retained by the licence holder so that the Licensing Authority can view this upon request.

The DBS certificate must specify 'Other Workforce' and Child and Adult Barring list information. The Licensing Authority will conduct 6 monthly checks automatically.

In the interests of public safety, a licence is unlikely to be granted to any individual that appears on either barred list.

## 2.7 Code of Conduct

While working as a Hackney Carriage or Private Hire driver, you shall act in accordance with the following:

- Display your driver badge where it is easily visible
- Have a clean and tidy appearance in accordance with the Dress Code
- Behave in a polite and courteous manner
- Take reasonable precautions to ensure the comfort and safety of passengers at all times
- Attend punctually at the appointed time and place when hired
- If requested offer reasonable assistance with the loading and unloading of bags and luggage
- Offer reasonable assistance to passengers with a disability when they are getting in and out of the vehicle and, if appropriate, to and from their starting point or destination

- Unless otherwise directed by the hirer, should proceed to the destination by the shortest or most economical route
- Not eat or drink in the vehicle whilst working as a Hackney Carriage or Private Hire vehicle
- Comply with a passenger's request not to play any radio or other sound producing equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle
- Not play any radio or other sound producing equipment in the vehicle so loud that it causes a noise nuisance to anyone inside or outside the Hackney Carriage or Private Hire vehicle
- Not carry animals in the vehicle whilst working as a Hackney Carriage or Private Hire except those carried in connection with the hiring of the vehicle. The driver has the discretion to decide whether he/she wants to take an animal belonging to a passenger in the vehicle, however, that animal may only be carried in the rear of the vehicle
- **Must carry a customer's guide, hearing or assistance dog** unless the driver holds an exemption on medical grounds
- Shall ensure that the vehicle is clean, tidy and free of rubbish and unnecessary personal belongings whilst being used to carry passengers
- Shall ensure that they comply with the Intended Use Policy at all times (see Annex 4)

## **2.8 Dress Code**

The purpose of Cotswold District Council's driver dress code is to seek a standard of dress that portrays a positive image of the district; to enhance a professional image of the drivers licensed by the Council and to ensure that public and driver safety is not compromised. The Council expects all licensed drivers to be dressed in an appropriate manner whilst working as a Hackney Carriage or Private Hire driver.

### **Unacceptable standards of dress include:**

- Dirty and ripped clothing
- Words or graphics on any clothing that is of an offensive or suggestive nature
- Beachwear
- Outdoor footwear for all drivers must be suitable. Flip flops and forms of footwear which are not secured around the heel are deemed unacceptable.

## **2.9 Lost Property**

When a passenger is leaving your vehicle, you should check to make sure that no property has been left behind.

If a passenger does leave something in your vehicle you should take it to a local Police Station and get a receipt for it from the duty officer.

## **2.10 Safeguarding and Equality Awareness Training**

There are well-publicised issues relating to child sexual exploitation and human trafficking that have occurred throughout the country. These are abhorrent crimes and the Hackney Carriage and Private Hire trade have a role to play in tackling this issue by acting as the 'eyes and ears' of the community to help identify and help those who are vulnerable or being exploited.

Cotswold District Council is committed to working with the other Gloucestershire Licensing Authorities and the Gloucestershire Safeguarding Board to set up training for all Hackney Carriage and Private Hire drivers..

All new applicants must complete the training prior to licensing. All existing licence holders must attend refresher training every 3 years. Failure to undertake the training within the timescales, except in exceptional circumstances at the discretion of the Licensing Officers, will lead to suspension of the licence until such a time as the training is completed.

### **2.11 English Proficiency**

The assessment of fit and proper includes an assessment of an applicant or licensee's English language proficiency. A lack of English 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. Applicants for a hackney carriage or private hire driving licence must therefore have a sufficient English language proficiency and be able to demonstrate this. Some applicants may not be required to take the English proficiency test. This is the case if they can demonstrate their ability to communicate in English by providing an appropriate educational certificate for a qualification related to English. Acceptable qualifications may include a GCSE (or equivalent) in a subject such as English language or literature, a degree in a subject containing substantial English content, or an NVQ or BTEC in a subject that requires its students to communicate well in English. If applicants are unable to provide such a certificate, or if the licensing officer is not satisfied that the certificates provided sufficiently demonstrate the applicant's ability to communicate in English, the applicant will need to pass the English proficiency test. English language proficiency requirements will apply to new applicants from date of adoption of these standards however, discretion remains to refer existing licence holder for an assessment on a case to case basis.

**2.12 National Register of Taxi Licence Refusals and Revocations Drivers (NR3)** Cotswold District Council has signed up 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 licence revoked, or an application for one refused. The register is used for assessing whether an individual is a fit and proper person to hold a hackney carriage or private hire driver licence.

Therefore:

- Where a hackney carriage or private hire driver licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new driver licence or driver licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

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

This is a mandatory part of making a new or a renewal application for a dual hackney carriage and private hire driver licence or for a private hire driver licence. Cotswold District Council has published policy on its website outlining the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at (link to follow)

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 authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer. This includes submitting a subject access request. (link to follow)

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

A decision to refuse or revoke a licence where this decision related to a risk of harm to a child or vulnerable adult, will be referred to the DBS and Gloucestershire Constabulary.

All new and renewal driver licence applications will be checked against the NR3 to ensure that no action has been taken by any other Licensing Authorities.

### **2.13 Fit and Proper Test**

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. The question of whether a person is a fit and proper person will be based on the following standard:

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?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

The overriding consideration will be safeguarding the public. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the Licensing Sub-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.

#### **2.14 Complaints against licensees**

Licensees are required to display, in their licensed vehicles, guidance for passengers on making complaints directly to the licensing authority. The guidance for passengers must be displayed where it can easily be read. Signage to be displayed in licensed vehicles showing the guidance will be issued by the licensing authority. The signage will include:

- the licensing authority's name, contact email and address,
- the vehicle plate number for reference when making complaint
- the licensing authority's website address where there will be further information for passengers about how to make complaint.

Licensees who are found to not be displaying the complaint guidance face a suspension of their vehicle licence and a possible review of their driving licence.

Complaints will be recorded, investigated and appropriate action taken in accordance with the Enforcement and Complaints policy at Annex 2.

## 3. Hackney Carriage & Private Hire Drivers (Dual Driver) - Requirements under Legislation

### 3.1 Equality Act 2010

The Equality Act 2010 makes it unlawful to discriminate, either directly or indirectly, against members of the public on the grounds of disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief.

### 3.2 Wheelchair Users

Under the Equality Act 2010, from 6 April 2017, drivers of Hackney Carriage and Private Hire vehicles designated by the local licensing authority as being wheelchair accessible must comply with the requirements of Section 165 of the Equality Act 2010, unless they have been issued with an exemption certificate.

Drivers must:

- carry the passenger while in a wheelchair
- not make any additional charge for doing so
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair
- take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- give the passenger such mobility assistance as is reasonably required

Section 166 allows us to exempt drivers from the duties to assist passengers in wheelchairs if it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

The licensing authority will also maintain a list of designated wheelchair accessible vehicles on its website.

### 3.3 Assistance Dogs

Under the Equality Act 2010, licensed drivers of Hackney Carriages and Private Hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so

It is best practice to ask the passenger where they want themselves and their dog to sit in the vehicle.

Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed.

To ensure that the Equality Act 2010 is upheld, Cotswold District Council will have a zero tolerance policy to access refusals and will investigate all reported violations of the Act with a view to pursuing a conviction.

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. The Council will only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history. The notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.

### **3.4 Smoke Free Legislation**

Under the Health Act 2006, Hackney Carriage and Private Hire vehicles are smoke free vehicles by law. This means that neither the driver nor the passengers are able to smoke in the vehicle at any time. Even if you are driving a licensed vehicle without passengers you will be committing an offence if you smoke in the vehicle.

Vaping and electronic cigarettes are also prohibited in licensed Hackney Carriage or Private Hire vehicles.

### **3.5 Immigration Act 2016**

Any person who does not have the right to work in the UK is disqualified from holding a Hackney Carriage or Private Hire driver licence. The Council will need to see documentation to check that an applicant is not disqualified for reason of their immigration status.

# Hackney Carriages and Private Hire Vehicles

## 4. Vehicles - Application Requirements

### 4.1 New Application

To make an application you must submit the following:

- Application form
- Fee
- Vehicle registration document in your name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Meter Calibration Certificate. This applies to all Hackney Carriages. For Private Hire vehicles it only applies if a meter is fitted
- LOLER and weight test certificate (if applicable)
- Basic DBS check by the vehicle proprietor if they are not a licensed driver with Cotswold District Council

### 4.2 Renewal Application

A renewal application must be completed prior to the expiry date of the current Hackney Carriage vehicle licence. If you do not renew your licence before it expires your vehicle becomes unlicensed and should not be used for hire and reward. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

To make a renewal application you must submit:

- Application form
- Fee
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Hackney Carriage, Hackney Carriage or public hire. For Private Hire vehicles insurance will state Private Hire
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Basic DBS check by the vehicle proprietor if they are not a licensed driver with Cotswold District Council

### 4.3 Transfer of Ownership Application

(Ownership of a licensed vehicle is transferred to another person(s)).

To make a transfer application the new owner must submit the following:

- Transfer application form
- Fee

- Proof of transfer of the licensed vehicle such as a registration certificate in the newowner's name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT (unless the vehicle is less than 1 year old from registration date)
- Written consent to transfer from previous licence holder
- Basic DBS check by the vehicle proprietor if they are not a licensed driver with Cotswold District Council

The existing licence plate will be valid for the remainder of the current licence. A new plate will not be issued.

#### **4.4 Change of Vehicle Application**

(A licensed vehicle is replaced with another vehicle either temporarily or permanently)

To make a change of vehicle application you must submit:

- Change of vehicle application form
- Fee
- Proof of ownership of the vehicle such as a registration certificate in your name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Return any plates and discs previously issued by the Council

For permanent transfers, the licence holder can choose whether to be issued with a new plate for a full year or for the remainder of the current year.

For insurance companies providing vehicles temporarily, a new licence must be applied for. The application form should be completed by the insurance company.

#### **4.5 Change of Registration of Vehicle Application**

(The registration number of a licensed Hackney Carriage or Private Hire vehicle is changed e.g. personalised number plate)

To make a change of registration application you must submit:

- Change of registration application form
- Fee
- Documents from DVLA confirming change of registration
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate showing new registration
- Return any plates and discs previously issued by the Council

## 5. Hackney Carriage and Private Hire vehicles Cotswold District Council Policy

### 5.1 Vehicles

The vehicle shall be of a suitable size, type and design to be safe and comfortable for passengers.

The vehicle must be right hand drive.

Normally vehicles should be four door saloons; five door estates, multipurpose vehicles (peoplecarriers), minibus or purpose built Hackney Carriages.

The vehicle must be constructed and the doors open sufficiently wide as to allow easy access into and egress from the vehicle and cause no inconvenience to passengers.

A minibus, or similar type of vehicle, in addition to the driver's door, must have at least two other doors that provide adequate entry/egress to the vehicle for use by passengers. These doors must permit easy access for passengers entering and exiting the vehicle and be readily opened from inside the vehicle.

They may consist of:

- Either two sliding doors, one to either side of the vehicle, or
- A door on the 'near side' of the vehicle and a door at the rear of the vehicle

The vehicle licence holder shall ensure that the vehicle and all fittings and seating are efficient, safe, tidy and clean.

The **outside of the vehicle** will be free from dents, rust or unrepaired accident damage and with even paintwork matching that applied by the manufacturer. This includes alloy wheels, hub caps and wheel trims.

The **inside of the vehicle** will be free of all visible stains, splits, and tears unless satisfactorily repaired or covered neatly. All carpets and mats will be fitted so as not to be a trip hazard.

**A vehicle must not be structurally damaged or have been an insurance write-off, except where repaired and certified to the Council's satisfaction.**

### 5.2 Age policy for vehicles

A new application for a Hackney Carriage or Private Hire vehicle licence will be refused if a vehicle is more than 5 years old from date of first registration.

An application to change the vehicle licensed as a Hackney Carriage or Private Hire vehicle will be refused if a vehicle is more than 5 years old from date of first registration.

An application to renew a Hackney Carriage or Private Hire vehicle will be refused if the vehicle is more than 15 years old from date of first registration.

Wheelchair accessible vehicles will be exempt from the above policy.

Licensing Officers have the discretion to licence a vehicle that does not meet the above age policy in the case of elite vehicles such as purpose built Hackney Carriage cab, Rolls Royce or similar provided the vehicle is in excellent condition. Any such requests for licensing a vehicle should be made in writing by email.

### 5.3 Converted Vehicles (including wheelchair accessible)

A vehicle that has been converted since manufacture, for example, many wheelchair accessible vehicles, must provide one of the following M1 approvals following conversion:

- European Whole Vehicle Type approval (ECWVTA)
- UK Low volume approval (UKLVTA)
- UK Individual Vehicle Approval (IVA)
- Certificate of Initial Fitness (COIF)
- UK Voluntary Standard Individual Vehicle Approval

Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle.

Please note that to achieve Voluntary Standard Individual Vehicle Approval VOSA are likely to require valid certification that all alterations such as seat fitting and tracking are M1 compliant. There is information about voluntary approvals on the Government's website. <https://www.gov.uk/vehicle-approval/voluntary-approval>

Where a wheelchair accessible vehicle has been converted by a bona fide converter, and the vehicle has then been registered with DVLA after conversion, the Council will accept that this vehicle will have passed appropriate approval in order to be registered and so the vehicle will be accepted for licensing without need for further documentation unless it appears that further conversions have been made to the vehicle following registration.

For vehicles that have been converted and currently licensed with Cotswold District Council, an IVA will be required by 1 April 2020.

### 5.4 Wheelchair Accessible Vehicles

Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:

- The vehicle must be capable of accommodating a wheelchair user in a wheelchair so that the wheelchair faces forwards. The wheelchair must not be placed sideways
- Access to and egress from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus
- **Wheelchair internal anchorage** must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit
- A **suitable restraint** must be available for the occupant of a wheelchair
- Access ramps or lifts to the vehicle must be securely fixed prior to use and be able to support the wheelchair, occupant and helper
- Ramps and lifts must be securely stored in the vehicle before it may move off

- When deployed, **ramps must run flush** with the interior floor level
- Any **equipment fitted to the Hackney Carriage or Private Hire vehicle for lifting a wheelchair** into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I.1998/2307). Any such equipment must be maintained in good working order and be available for use at all times

### 5.5 Stretched Limousines Hackney Carriages

Stretched Limousines are not permitted to be licensed as Hackney Carriage vehicles.

#### Private Hire vehicles

Stretched limousines are permitted to be licensed as Private Hire vehicles.

The vehicle may be left or right hand drive.

The vehicle will be licensed to carry no more than 8 passengers.

All limousines must have a UK single vehicle approval certificate issued by VOSA.

Any proprietor who wishes to license an American Stretched Limousine will need to prove the vehicle has been converted by an approved converter under the Ford, Quality Vehicle Modifier (QVM) programme or on the Cadillac, Cadillac Master Coachbuilders (CMC) programme. It is the responsibility of the proprietor to provide the evidence to support this.

Where any vehicle is 'stretched' within the European Union the proprietor must produce the appropriate 'Low Volume' or 'European Whole Vehicle Type Approval' certification identifying the converting company.

Each Private Hire Licensed Stretched Limousine shall be required to produce a new MOT certificate every 6 months. The MOT test should be carried out by a VOSA registered MOT testing station with facilities to accommodate such vehicles.

### 5.6 Criminality checks for vehicle proprietors

Licensed vehicle proprietors will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the vehicle licence.

Whether a licensed vehicle proprietor is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at Annex 1.

Should the licensed vehicle proprietor cease to hold a driver hackney carriage or private hire driver licence a basic certificate will be required immediately.

A refusal to license an individual as a hackney carriage or private hire driver or to suspend or revoke a driver licence, does not automatically mean that that individual cannot be issued or continue to hold a hackney carriage, private hire vehicle or private hire operator licence. Under these circumstances, a decision on the fitness and propriety of a vehicle proprietor will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the 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.

## 6. Hackney Carriage and Private Hire vehicle Cotswold District Council Conditions

These conditions are attached to all Hackney Carriage and Private Hire vehicle licences issued by Cotswold District Council.

### 6.1 Vehicle Testing

All vehicles over 5 years old will be subject to obtaining a satisfactory MOT certificate every 6 months. It will be the licence holder's responsibility to ensure that this certificate is submitted to licensing in a timely manner.

### 6.2 Vehicle Plates

Hackney Carriages only - an external licence plate must be attached to the outside of the vehicle adjacent or near to the rear vehicle number plate and must be visible at all times that the licence is in force.

Hackney Carriages and Private Hire - an internal licence plate must be attached to the internal bottom passenger side corner of the front windscreen and must be visible from inside and outside the vehicle at all times that the licence is in force.

All plates shall remain the property of the Council and in the event that the licence is suspended, revoked or expired shall be returned to the Council **within 7 days** from the date of a notice served on the licence holder by the Council.

### 6.3 Roof Signs Hackney Carriages

A roof sign must be displayed on the top of the vehicle clearly showing the word 'Taxi'. The sign shall be attached to the meter and shall be illuminated when the vehicle is available for hire. The design of the roof sign shall be approved by the Council. The following may be incorporated in the roof sign:

- the trade name or name of the proprietor;
- the telephone number, email address and/or website of the proprietor;
- the words 'For Hire' which are only illuminated when the licensed Hackney Carriage is available for hire;

The roof sign may be of any colour except blue, but must conform to national legislation and Road Vehicle Lighting Regulations in respect of the display of lights to the front and rear of any vehicle.

Any exceptions to this rule must be submitted to the Licensing Officer for consideration.

### Private Hire vehicles

The displaying of signs on or above the roof of a Private Hire vehicle is permitted but can only consist of the company name, telephone number and must state pre-booking only. The words 'taxi', 'cab' or 'Hackney Carriage' are strictly prohibited.

Requests for roof signs on Private Hire vehicles must be approved by the Licensing Officer.

#### **6.4 Fire Extinguisher**

The vehicle licence holder shall ensure that an appropriate fire extinguisher is provided in the vehicle and is maintained in good working order and readily available for use in an emergency.

#### **6.5 First Aid Kits**

It is recommended that a First Aid Kit is carried in the vehicle.

#### **6.6 CCTV**

CCTV in vehicles is not currently a requirement.

If the licence holder chooses to install CCTV, they must be registered with the ICO. CCTV systems must be operated in accordance with data protection legislation.

Any vehicle with CCTV that records inside the vehicle must display a sign advising passengers that a CCTV system is in operation in the vehicle.

Audio recording CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. You must choose a system without this facility wherever possible; however, if the system comes equipped with a sound recording facility then this functionality should be disabled. There are limited circumstances in which audio recording may be justified due to a specific threat to an individual's personal safety, e.g. when a 'panic button' is utilised in response to a threat of physical violence. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed. The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment. In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.

Further information on CCTV and data protection can be found on the Information Commissioners' website at <https://ico.org.uk>

#### **6.7 Tinted Windows**

Vehicles will not be accepted that have tinted film on the windows. However factory fitted tinted windows are permitted.

#### **6.8 Luggage**

All luggage must be stored securely and, if appropriate, the vehicle shall be fitted with suitable equipment to prevent luggage from entering the passenger compartment.

Any roof racks, roof boxes and trailers to be used must be approved by a Licensing Officer. When using such equipment you should ensure that the luggage is safely secured.

## 6.9 Seatbelts

For each passenger carried in the licenced vehicle there shall be available a properly fitted, maintained and EU approved seatbelt as per the manufacturer's specification.

## 6.10 Meters Hackney Carriages

All Hackney Carriages must have a meter.

For requirements relating to meters in Hackney Carriages please see Hackney Carriage Byelaws (see section 7).

A meter certificate issued by a meter fitter, approved by the meter supplier, will be required in the following cases:

- When a vehicle is first licensed
- If a meter is replaced
- A meter is moved to another licensed vehicle
- Cotswold District Council rates are changed
- At the request of a Licensing Officer where there is concern about the accuracy of the meter

Hackney Carriage meters may be tested for accuracy at the discretion of the Council.

## Private Hire vehicles

A meter may be installed in a Private Hire vehicle. However, if installed, it must have a sign attached stating that 'This is a Private Hire vehicle' and clearly display the tariff to which the meter is set. The tariff set should not exceed the authorised tariff for Hackney Carriages set by the Council. A meter certificate certifying the meter has been calibrated accurately must be provided when the meter is installed, changed or moved to another vehicle.

## 6.11 Fares Hackney Carriages

For a journey that wholly takes place within the controlled district the meter shall be running at no higher than the prescribed rate and the fare charged shall be the fare showing on the meter unless a fare is agreed with the passenger(s) prior to the commencement of the journey. Such an agreed fare shall not exceed the prescribed rate.

For a journey that either wholly or in part takes place outside the controlled area the fare or method of calculation of the fare shall be agreed with the passenger(s) prior to the commencement of the journey.

## Private Hire

All journeys must be pre-booked. The fare must be agreed in advance with the customer or, if a meter is fitted, it must be agreed prior to the journey to use the meter.

## 6.12 Setting of fares

Upon receipt of a request to review the fares for the District, the licensing authority must conduct a review.

The request must be supported by independent operators and firms to ensure that the request is required by a combination of licence holders. As a rule, a request will not be accepted if there is less than 10% of the trade requesting it.

A request will only be entertained providing that there has been no other review within the past 12 months.

Once a request has been received, the licensing authority will ensure that the consultation commences within 3 months of receipt.

## 6.13 Complaints, compliments and feedback regarding licensees

Licensees are required to display, in their licensed vehicles, guidance for passengers on making complaints, compliments or general feedback directly to the licensing authority. The guidance for passengers must be displayed where it can easily be read. Signage to be displayed in licensed vehicles showing the guidance will be issued by the licensing authority. The signage will include:

- the licensing authority's name, contact email and address,
- the vehicle plate number for reference when making complaint,
- the licensing authority's website address where there will be further information for passengers about how to make complaint.

Licensees who are found to not be displaying the complaint guidance face a suspension of their vehicle licence and a possible review of their driving licence.

Complaints will be recorded, investigated and appropriate action taken in accordance with the Enforcement and Complaints policy at Annex 2.

## 6.14 Advertising

A copy of the policy guidelines on signage, advertising and other vehicle signage is shown in Appendix 9. The requirements are detailed below:

### For Hackney Carriage Vehicles

- a) Vehicle markings which comply with the following condition do not require approval by the Licensing Officer: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 457mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.

- b) New vehicle markings which do not fall within the standard condition at (a) above must be given prior approval by the Licensing Officer. Applications should be made following procedures and guidelines which are available from licensing. No new markings or advertising can be displayed until the application has been approved.
- c) The Hackney Carriage company / proprietor's trade-name, telephone number, email address and/or website, may be displayed anywhere on the vehicle. The size, style and colours of the lettering are not restricted but must be approved by the Licensing Officer beforehand.
- d) Third-party advertising - for example sponsorship by a local company - may be allowed, but each application must be made in writing and will be decided by the Council's Licensing Sub-Committee. No such advertising may be used without the Licensing Sub-Committee's prior agreement.
- e) Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view, must conform with national legislation concerning the placing of such signs on vehicle windscreens, and must be approved by the Licensing Officer beforehand.
- f) Markings and advertising on the vehicle must not be of a racial, sexual, potentially offensive, political or religious nature, and any markings considered by the Licensing Officer to be inappropriate will not be permitted.

**For Private Hire vehicles**

- a) Vehicle markings which comply with the following condition do not require approval by the Licensing Officer: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 962mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.
- b) New vehicle markings which do not fall within the standard condition at (a) above must be given prior approval by the Licensing Officer. Applications should be made following procedures and guidelines which are available from the Licensing Team. No new markings or advertising can be displayed until the application has been approved.
- c) The Private Hire Operator's trade-name, telephone number, email address and/or website, may be displayed anywhere on the vehicle. The size, style and colours of the lettering are not restricted but must be approved by the Licensing Officer beforehand.
- d) The use of the following words, or derivatives of them, is PROHIBITED anywhere on a Private Hire vehicle: 'TAXI', 'CAB', 'HACKNEY CARRIAGE'
- e) Third-party advertising - for example sponsorship by a local company - may be allowed, but each application must be made in writing and will be decided by the Council's Licensing Sub-Committee. No such advertising may be used without the Licensing Sub-Committee's prior agreement.
- f) Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view, must conform with national legislation concerning the placing of such signs on vehicle windscreens, and must be approved by the Licensing Officer beforehand.

- g) Markings and advertising on the vehicle must not be of a racial, sexual, potentially offensive, political or religious nature, and any markings considered by the Licensing Officer to be inappropriate will not be permitted.

**Approval of signage and advertising**

All new signs, markings and advertisements must be approved by the Council. In the case of disagreement between the Licensing Officer and the applicant, the applicant may ask for the application to be considered by the Council's Licensing Sub-Committee.

## 7. Hackney Carriage Byelaws

**These byelaws only apply to Hackney Carriages, they do not apply to Private Hire Vehicles.**

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

### Interpretation

1. Throughout these bye laws "the Council" means the Cotswold District Council and "the district" means the area of Cotswold District Council.

**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 the 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 the 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 the 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 water-tight;
  - (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; and
  - (i) provide at least two doors for the use of persons conveyed in such carriage and separate means of ingress and egress for the driver.
4. The proprietor of the Hackney Carriage shall cause the same to be provided with the taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say:-

- (a) the taximeter shall be fitted with a key, flag, 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, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for hire of the carriage by the council;
- (d) 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;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
- (f) 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.

**Provisions conduct of the proprietors and drivers of Hackney Carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.**

5. The driver of a Hackney Carriage provided with a taximeter shall:-
  - (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, 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; and
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise and also at any other time at the request of the hirer.
  
6. 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.
  
7. A 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 appointed by the Council;
  - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorized 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 to face in the same direction; and

- (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.
8. A proprietor or driver of a Hackney Carriage, when standing or plying for hire shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
9. The driver of 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.
10. 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.
11. A proprietor or driver of a Hackney Carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. 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.
13. The driver of a Hackney Carriage so constructed as to carry luggage shall, when requested by any persons hiring or seeking to hire the carriage:-
- (a) convey a reasonable amount of luggage;
  - (b) afford reasonable assistance in loading and unloading; and
  - (c) afford reasonable assistance in removing it to or from the entrance of the building, station, or place at which he may take up or set down such person.

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

14. 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 Council, the rate or fare being calculated by distance and time 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 and time 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 Council which it may not be possible to record on the face of the taximeter.

15. (a) The proprietor of a Hackney Carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.

- (b) The proprietor of a Hackney Carriage bearing a statement of fares in accordance with this byelaw 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.

- 16. 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 accidentally be left therein.
- 17. 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 be found by or handed in to him:-
  - (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 in the custody of the officer in charge of the office on his giving receipt for it; and
  - (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**

- 18. Every person who shall offend against these byelaws shall be liable on summary conviction to a fine not exceeding one hundred pounds scale and in the case of a continuing offence to a further fine not exceeding five pounds for each day running which the offence continues after conviction therefor.

**Given under the Common Seal of the Cotswold District Council this 24th day of April 1987 in the presence of P.A. Cutts (Chairman) and D. Waring (Chief Executive).**

**The foregoing byelaw is hereby confirmed by the Secretary of State and shall come into operation on the 1st day of August 1987.**

## 8. Hackney Carriage and Private Hire Vehicles Requirements under Legislation

### 8.1 Duration of Licence

The licence shall remain in force for a period of one year.

### 8.2 Number of Passengers permitted

A Hackney Carriage or Private Hire vehicle shall not be licensed to carry more than 8 passengers.

A Hackney Carriage or Private Hire vehicle shall not carry any more passengers than the number stated on the Hackney Carriage or Private Hire vehicle plate.

### 8.3 Hackney Carriage must be driven by a licensed Hackney Carriage Driver

Once a vehicle is licensed as a Hackney Carriage it can only be driven by a person holding a Hackney Carriage driver's licence issued by the same Council throughout the duration of that Hackney Carriage vehicle licence. This includes when the Hackney Carriage is being used for private use.

### 8.4 Private Hire vehicle must be operated by a licensed Private Hire Operator and driven by a licensed Private Hire Driver

A Private Hire vehicle must at all times be operated by a Private Hire operator licensed with the same Council.

Once a vehicle is licensed as a Private Hire vehicle it can only be driven by a person holding a Private Hire driver's licence issued by the same Council throughout the duration of that Private Hire vehicle licence. This includes when the Private Hire vehicle is being used for private use.

### 8.5 Private Hire vehicle must not look or be used like a Hackney Carriage

A Private Hire vehicle must not be or resemble a Hackney Carriage or otherwise be of such design or appearance as to lead any person to believe that the vehicle is a Hackney Carriage. For example it should not resemble a London style Hackney Carriage.

A Private Hire vehicle must not display any sign that includes the word 'Taxi' or 'Cab' or 'For Hire' or any word of similar meaning or appearance to any of those words.

### 8.6 Plying for Hire - Hackney Carriages only

Plying for hire means waiting for passengers at a taxi rank or being flagged down in the street.

Hackney Carriages licensed by Cotswold District Council can only ply for hire within Cotswold District boundaries.

A Private Hire vehicle is not permitted to ply for hire.

### 8.7 Change of Address or Details of Licence

A holder of a Hackney Carriage or Private Hire vehicle licence must notify the Council in writing **within 7 days** of any changes in the details of their licence including a change of address.

### 8.8 Notification of Accidents

A holder of a Hackney Carriage or Private Hire vehicle licence must notify the Council as soon as reasonably practical and **no longer than 72 hours** after any accident that causes damage affecting the safety, performance or appearance of a Hackney Carriage or Private Hire vehicle or the comfort and convenience of the passengers.

### 8.9 Smoke Free Legislation

Hackney Carriages and Private Hire vehicles are smoke free vehicles by law and neither the driver nor the passengers are able to smoke in the vehicle at any time. Even if there are no passengers the driver cannot smoke in the vehicle.

Vaping and electronic cigarettes are also prohibited in licensed vehicles.

A 'No Smoking' sign must be displayed in each compartment in the vehicle which shows the international 'No Smoking' symbol (a minimum of 70 mm in diameter).

### 8.10 Seat Belt and Child Restraint legislation

The driver of a Hackney Carriage or Private Hire vehicle is responsible for ensuring that all passengers under the age of 14 are wearing the correct seat belts or restraints.

There is an exemption in legislation for Hackney Carriages and Private Hire vehicles regarding child restraints. If the correct size child restraints are not available in the vehicle then the following apply:

- Under 3s may travel unrestrained but in the rear seat only;
- Those 3 years and above in the rear seat must use an adult belt if the appropriate child seat or booster is not available;
- A child up to 12 years old or up to 135 cms in a front seat of any vehicle including Hackney Carriages must use the correct child seat or booster.

The driver of a Hackney Carriage or Private Hire vehicle is exempt from wearing a seat belt whilst the vehicle is being used for seeking hire, or answering a call for hire, or carrying a passenger for hire. However, as a matter of safety, the Council would advise that drivers do wear their seat belts at all times and in particular when not carrying passengers.

### 8.11 Sale of Alcohol

Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is made as part of a booking arrangement that sale must be authorised by either a premises licence or temporary event notice in accordance with the Licensing Act 2003.

# Private Hire Operators

## 9. Private Hire Operators - Application Requirements

### 9.1 New Applications

You have the option to apply for a licence that lasts for 1 year or 5 years. The application process is the same but the fee is higher for a 5 year licence.

To make an application, you must submit the following:

- Application form
- Fee
- Satisfy the Council that you are a 'fit and proper person'. You must provide a Basic Criminal Record Disclosure and provide appropriate identity documentation. (Where you have also submitted an application for a Hackney Carriage or Private Hire driver licence to the Council (and that application or licence is still current), the Enhanced Criminal Record Check that is undertaken as part of that application will be accepted instead of needing to provide a Basic Criminal Record Disclosure)

### **Additional New Application Requirements for Foreign Nationals and Persons That Have Resided Outside the UK.**

- Provide a Basic Criminal Record Disclosure as detailed in application requirements above (unless you have only just arrived in this country). The Basic Criminal Record Disclosure issued through Disclosure Scotland will show any convictions that have been committed in the UK
- In addition to the Basic Criminal Record Disclosure you must provide the Council with a criminal record disclosure from all countries outside the UK you have resided in from the age of 18; or if those countries do not produce such information a certificate of good conduct from the Embassy or Legation from all countries outside the UK that you have resided in from the age of 18. This certificate must be an original and if in a foreign language must be accompanied by an original certified translation from a sworn translator. Any costs involved in such certificates and translations must be paid by you

### 9.2 Renewal Application

A renewal application must be completed prior to the expiry date of the Private Hire Operator's licence. There is normally no period of grace if a renewal is submitted after the expiry date. If you do not renew your licence on time you will become unlicensed. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

You have the option to renew a licence that lasts for 1 year or 5 years. To make a renewal application you must submit:

- Renewal application form
- Pay the appropriate renewal fee

## 10. Private Hire Operators Conditions

These conditions are attached to all Private Hire operator licences issued by Cotswold District Council.

### 10.1 Duration of Licence

The licence is issued for a period of 1 year or 5 years.

### 10.2 Convictions, Cautions and Fixed Penalties

If any person named on the Private Hire operator's licence gets any convictions, cautions, fixed penalties or has a court case pending, he/she must notify the Council in writing **within 48 hours**.

### 10.3 Criminality checks for private hire vehicle operators

Licensed private hire operator(s) will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the operating licence.

Whether a private hire operator(s) is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at Annex 1.

Should the private hire operator(s) cease to hold a driver hackney carriage or private hire driver licence, a basic certificate will be required immediately.

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 private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a private hire operator(s) will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the 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.

A private hire vehicle operator licence may be applied for by a company or partnership. In this case, the 'fit and proper' test will apply to each of the directors or partners in that company or partnership.

A licensed private hire operator issued to a company or partnership must advise the licensing authority of any change in directors or partners. Any change to directors or partners will require additional criminality checks.

### 10.4 Change of Address or Details of Licence

Any person named on the Private Hire operator's licence must notify the Council in writing **within 7 days** if the information supplied in his/her application for a Private Hire operator's licence is altered for any reason including a change of address.

## **10.5 Responsibility for Drivers and Vehicles**

A Private Hire operator must ensure that all vehicles and drivers operating under his/her operator's licence are complying with the legislation and conditions relating to Private Hire vehicles and drivers.

## **10.6 Accepting Bookings**

A Private Hire operator must not accept a booking unless the person making the booking knows the basis of the hire charge.

## **10.7 Records**

A Private Hire operator must keep records of all bookings at their operator base in either a bound book or as a computer record which must include:

- 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.
- Any other comments such as details of sub-contract

A Private Hire operator must keep records of all Private Hire vehicles that he/she operates. This includes:

- The owner of the vehicle;
- The registration number and plate number;
- The driver of the vehicle and badge number.

All records should be kept for **6 months** from the date of the last entry.

Details of all bookings must be entered into the records immediately after they have been accepted or as soon as reasonably practicable.

An operator shall notify the Council in writing **within 7 days** of the termination of employment of a Private Hire vehicle or driver.

## **10.8 Advertising**

A Private Hire operator must not use the words 'taxi' or 'cab' or any word of similar meaning or appearance to any of those words in any advertising of the operator's company except where an operator also makes licensed Hackney Carriages available.

## **10.9 Standard of Service**

A Private Hire operator shall ensure that when a Private Hire vehicle has been hired it shall attend punctually at the appointed time and place unless delayed or prevented with reasonable cause.

## **10.10 Location of Operator Base**

The location where a Private Hire operator makes provision for taking a booking must be within the Council's boundaries. This may be an office address, business address or a home address.

## **10.11 Premises**

If any rooms or areas are provided for the public for waiting or making bookings they must be clean, adequately heated and ventilated and lit and have adequate seating facilities.

If any rooms or areas are provided for use by the public the Private Hire operator must hold public liability insurance for those areas if relevant.

If premises are open to the public, applicants must produce evidence that they have taken out a minimum of £5 million of public liability insurance for the premises to be licensed, before the relevant council will approve an application for a private hire operator's licence.

## **10.12 Booking and dispatch staff**

Licensed private hire operator(s) will be subject to a licence condition ensuring that all booking and dispatch staff have had a basic DBS check. In addition, private hire operators must ensure they have written policies and procedures in place to:

- a. ensure criminality checks are undertaken on all booking and dispatch staff at appropriate intervals; and
- b. set out its approach on employing all booking and dispatch staff that are ex-offenders.

Where a licensed private hire operator has outsourced its booking and dispatch function that licensed private hire operator must ensure the third-party have adequate arrangements in place as outlined above.

## 11. Private Hire Operators - Requirements under Legislation

### 11.1 Drivers and Vehicles

An operator must not use unlicensed drivers or vehicles.

An operator may only make use of drivers and vehicles licensed by the same Council that has issued the operator's licence.

### 11.2 Sub-Contracting

An operator may sub-contract a booking to another operator licensed with any Council. Both operators must keep a record of the booking. The contract and responsibility for the booking remains between the operator that took the booking and the client.

### 11.3 Records

An operator must make available records, on request, to an authorised officer of the Council or to a Police Officer.

### 11.4 Smoke Free Legislation

Private Hire vehicles and Hackney Carriages are 'Smoke Free' vehicles which means that no one can smoke in these vehicles at any time and the appropriate signage must be displayed.

Vaping and electronic cigarettes are also prohibited in licensed vehicles.

Any enclosed premises that are used by the public, for example for making bookings or are used as a workplace, must be smoke free.

### 11.5 Equality Act

The Equality Act 2010 makes it unlawful to discriminate, either directly or indirectly, against members of the public on the grounds of disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief.

### 11.6 Bookings Made by Disabled Persons Accompanied by Assistance Dogs

A Private Hire operator may not refuse to take a booking by a disabled person if the reason for that refusal is because the person will be accompanied by an assistance dog.

A Private Hire operator may not make an additional charge to carry an assistance dog.

### 11.7 Planning Permission

The use of a premises for a Private Hire operators business may require planning permission. Operators are advised to check with the relevant Planning Authority.

### **11.8 Sale of Alcohol**

Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is made as part of a booking arrangement that sale must be authorised by either a Premises Licence or Temporary Event Notice in accordance with the Licensing Act 2003.

### **11.9 Immigration Act 2016**

Any person who does not have the right to work in the UK is disqualified from holding a Private Hire operator licence. The Council will need to see documentation to check that an applicant is not disqualified for reason of their immigration status.

## Annexes

1. Criminal Convictions Policy
2. Enforcement and Complaints
3. Knowledge Test
4. Intended Use Policy
5. Policy guidelines for signage, advertising and other markings on licensed vehicles
6. Service Delivery Timescales
7. Table of Delegations
8. Copy of Gloucestershire's Common Licensing Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire

## Annex 1

# Gloucestershire licensing authorities - taxi and private hire convictions policy

## Information for applicants and existing licence holders

1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.
2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused or an existing licence holder will have their licence revoked. For other offences the policy gives the timescales that it is expected will have elapsed since the conviction before an application will be granted.
3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Licensing Sub-Committee for consideration who will take account of this policy. The obligation will be on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Licensing Sub-Committee to consider.
4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made **within 21 days** of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may not use the licence until any decision is made by the Court.
6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser or those offences not included. It is not reasonable that those licences should be automatically be revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

## **OVERVIEW**

7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.
8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction check on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
11. Taxi 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.
12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex - Assessment of Previous Convictions. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.
14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustive:
  - Relevance and date of the offence
  - Sentence imposed by the court
  - Age of person and circumstances when the offence was committed
  - Subsequent periods of good behaviour
  - Overall conviction history

- Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
  - Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process
  - Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services
  - Any other matters that are relevant
16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
17. A caution is regarded in exactly the same way as a conviction.
18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
19. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no "spent" convictions and that any and all criminal convictions (apart from "protected convictions" and "protected cautions" where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered
20. 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. 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.
21. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
22. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

25. 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.
26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
27. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## **OFFENCES**

### **Crimes resulting in death**

31. 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 (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licenceholder who is convicted of the above will have their licence revoked.

### **Exploitation**

32. 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, financial abuse, domestic abuse, harassment and stalking but this is not an exhaustive list.

### **Offences involving violence against the person**

33. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children, young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.

34. 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. A licence holder convicted of the above will have their licence revoked.

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm
- c. Actual bodily harm
- d. Grievous bodily harm with intent
- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- l. Affray
- m. Obstruction

### **Possession of a weapon**

35. 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. A licence holder convicted of the above will have their licence revoked

### **Sexual offences**

36. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.
37. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked
38. 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. A licence holder who goes on any of the above will have their licence revoked
39. Sexual/Indecency Offences include (this is not an exhaustive list)
- a. Rape
  - b. Assault by penetration
  - c. Offences involving children or vulnerable adults
  - d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
  - e. Making or distributing obscene material

- f. Possession of indecent photographs depicting child pornography.
  - g. Sexual assault
  - h. Indecent assault
  - i. Exploitation of prostitution
  - j. Soliciting (kerb crawling)
  - k. Making obscene / indecent telephone calls
  - l. Indecent exposure
  - m. Any similar offences (including attempted or conspiracy to commit) offences
40. Any licence holder charged with, convicted or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

### **Dishonesty**

41. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously
42. 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. A licence holder convicted of any of the above will have their licence revoked
43. Dishonesty offence includes (this is not an exhaustive list)
- a. Theft
  - b. Burglary
  - c. Fraud
  - d. Benefit fraud
  - e. Handling or receiving stolen goods
  - f. Forgery
  - g. Conspiracy to defraud
  - h. Obtaining money or property by deception
  - i. Other deception
  - j. Any similar offence

### **Drugs**

44. 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.
45. 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. A licence holder convicted of the above will have their licence revoked.

## **Discrimination**

46. 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. A licence holder convicted of the above will have their licence revoked.
47. Examples of Discrimination offences include (this is not exhaustive list)
- a. Racially aggravated common assault
  - b. Any racially-aggravated offence against a person or property.
  - c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
  - d. Offences under Equality Act 2010
  - e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

## **Motoring convictions**

48. 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.
49. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. <https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>
50. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years they are 'valid' for 10 years. There is more information on the Government's website <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>
51. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
52. Where an applicant has a major conviction the application will be refused whilst the relevant points remain 'valid' on their driving licence.

53. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of up to 6 points, a licence holder can agree to complete a driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Licensing Sub-Committee
54. Where a licence holder has more than 6 valid penalty points for driving offences their licence will be revoked.

### **Drink driving/driving under the influence of drugs**

55. 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. A licence holder convicted of the above will have their licence revoked.

### **Using a hand-held device whilst driving**

56. Where an applicant has a conviction for using a hand-held 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. A licence holder convicted of the above will have their licence revoked.
57. Where the offence is dealt with as a driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least four years have passed. This is the length of time these points remain current on the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a hand-held mobile telephone or a hand-held device, will have their licence revoked.

### **Hackney Carriage and Private Hire Offences**

58. Where an applicant has any offences under any relevant hackney carriage or private hire legislation a licence will not be granted until at least 7 years have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked.

## **Major Traffic Offences**

### **Paragraph 3(b) refers**

- AC10 Failing to stop after an accident.
- AC20 Failing to give particulars or to report an accident **within 24 hours**.
- AC30 Undefined accident offences.
  
- BA10 Driving while disqualified due to care and attention.
- BA20 Attempting to drive while disqualified by order of the court.
  
- CD10 Driving without due care and attention.
- CD20 Driving without reasonable consideration for other road users.
- CD30 Driving without due care and attention or without reasonable consideration for other road users.
- CD40 Causing death through careless driving when unfit through drink.
- CD50 Causing death by careless driving when unfit through drugs.
- CD60 Causing death by careless driving with alcohol level above the limit.
- CD70 Causing death by driving then failing to supply a specimen for analysis.
  
- DD40 Dangerous driving.
- DD60 Manslaughter or culpable homicide while driving a vehicle.
- DD80 Causing death by dangerous driving.
  
- DR10 Driving or attempting to drive with alcohol level above limit.
- DR20 Driving or attempting to drive while unfit through drink.
- DR30 Driving or attempting to drive then failing to supply a specimen for analysis.
- DR40 In charge of a vehicle while alcohol level above limit.
- DR50 In charge of a vehicle while unfit through drink.
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
- DR70 Failing to provide specimen for breath test.
- DR80 Driving or attempting to drive when unfit through drugs.
- DR90 In charge of vehicle when unfit through drugs.
  
- IN10 Using a vehicle uninsured against third party risks.
  
- LC20 Driving otherwise than in accordance with a license.
- LC30 Driving after making a false declaration about fitness when applying for a licence.
- LC40 Driving a vehicle having failed to notify a disability.
- LC50 Driving after a license has been revoked or refused on medical grounds.
  
- MS50 Motor racing on the highway.
- MS60 Offences not covered by other codes.
  
- UT50 Aggravated taking of a vehicle.

### **Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

### **Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

### **Inciting**

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)

## Annex 2

# Enforcement and Complaints Policy & Procedure with effect from 1 October 2021

### **Enforcement**

Cotswold District Council takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring the vehicle to Cotswold District Council Offices for inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview at Cotswold District Council Offices. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

### **Complaints by the Public**

The public are able to make complaints to the licensing department about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing Officers will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing Officers may request the licence holder to attend an interview at Cotswold District Council Offices in order to determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

### **Actions that may be Taken Following Enforcement or Complaint**

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public

| <b>Action</b>   | <b>Examples (but not an exhaustive list)</b>   |
|---|--|
| Take no action  | <ul style="list-style-type: none"> <li>• Breach, offence or complaint is proven to be false.</li> <li>• Breach, offence or complaint is proven to be false.</li> </ul>   |
| Verbal or written advice for example recommendation to re-take driver assessment test | <ul style="list-style-type: none"> <li>• Matter is minor or unproven and there is no previous history</li> <li>• Matter is minor and/or due to misunderstanding by the licence holder</li> </ul>   |
| Verbal or written warning   | <ul style="list-style-type: none"> <li>• Complaint made by the public</li> <li>• Minor traffic offence</li> <li>• Contravention of the code of conduct or dress code</li> </ul>  |
| Fixed penalty notice  | <ul style="list-style-type: none"> <li>• Smoking offences in a licensed vehicle</li> </ul>   |
| Immediate suspension or revocation of licence   | <ul style="list-style-type: none"> <li>• Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective</li> <li>• Suspension of driver licence (s 61 (2b) if in interest of public safety for example failing a medical or serious criminal allegations</li> <li>• Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical</li> </ul>   |
| Revocation of driver licence  | <ul style="list-style-type: none"> <li>• More than 6 penalty points on their DVLA driving licence</li> </ul>   |
| Suspension of licence -21 days notice   | <ul style="list-style-type: none"> <li>• Suspension of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory</li> </ul>   |
| Simple caution issued by Business Support Service Leader                              | <ul style="list-style-type: none"> <li>• A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending</li> </ul>  |
| Review of the licence by the Licensing Sub-Committee                                  | <ul style="list-style-type: none"> <li>• A licence holder receives criminal conviction, police caution major motoring offence, or serious complaint or allegation</li> <li>• A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk</li> <li>• A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period</li> <li>• Any matter where a possible outcome is the revocation of the licence</li> </ul> |
| Prosecution   | <ul style="list-style-type: none"> <li>• Using an unlicensed vehicle</li> <li>• Unlicensed driver driving a licensed vehicle</li> <li>• Unlicensed operator</li> <li>• Driving without valid insurance</li> <li>• Refusing to carry a guide dog</li> <li>• Exceeding the number of passengers on the plate</li> </ul>  |

### **Review of the Licence by the Licensing Sub-Committee**

The panel will be 3 members of the Licensing Committee. The licence holder will be invited to attend the review and will be given reasonable notice. However, if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take an anger management course, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

### **Right of Appeal**

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made **within 21 days** of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).

## Annex 3

### Hackney Carriage and Private Hire Drivers

### Knowledge Test Guidance

All Hackney Carriage and Private Hire Driver applicants must pass a knowledge test.

The test is taken at Cotswold District Council's offices in a group sitting and you must bring your passport and Photocard Driving Licence with you for identification purposes. The passport will also be checked to ensure that you have the right to work in the UK. If you do not hold a passport you must bring additional documentation showing that you have the right to work in the UK.

The knowledge test is broken down into the following sections:

#### **For Dual Drivers (Hackney Carriage and Private Hire):**

- 1) Highway Code
- 2) Numeracy
- 3) Policy Questions
- 4) Routes
- 5) Places of interest

#### **For Private Hire Drivers:**

- 1) Highway Code
- 2) Numeracy
- 3) Policy Questions

Each section has 20 questions. You must achieve a pass mark of 16/20 in each section to receive an overall pass (Dual Drivers 80/100 and Private Hire Drivers 48/60).

Questions about the Policy will be taken from the Policy. You should make sure that you have read this document before attempting to take the test.

The questions on the Highway Code are based on the national rules for safe driving. Questions about places of interest in Cotswold District will include questions on pubs, clubs, hotels, supermarkets, public buildings, train stations, museums, schools and some of the main road names.

Questions about routes are those within the district that will require you to know the names and numbers of the main roads in the district. Questions about routes to locations outside the district will focus on major destinations such as airports, ferry ports and large sport and entertainment centres and will require knowledge of the major motorway network.

The maths questions will include simple calculations such as how much change to give a customer.

The knowledge test must be booked in advance. You will be allowed up to one and half hours to complete the test. You will be advised of your results by email within 5 days of the test date.

If you fail your test you will be allowed to retake it a second time. You must pay for the knowledge test each time you take the test.

A third resit is not permitted until a period of 6 months has lapsed.

If you pass, test papers are valid for 6 months, after which time you will need to retake the test.

## Annex 4

### Intended Use Policy for Licensing of Hackney Carriages(Hackney Carriage Vehicles)

The law permits a Hackney Carriage vehicle licensed by one local authority to be used to fulfil pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. In order to close this loophole, Cotswold District Council is likely to refuse to grant a Hackney Carriage vehicle licence where the applicant for that licence intends their Hackney Carriage vehicle to be used entirely or predominately for the purpose of fulfilling pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. (e.g. Cheltenham, Swindon or Stroud).

#### **Intended Use Policy**

The policy is for the following types of application:-

- New vehicle licence;
- Renewal of vehicle licence;
- Transfer of vehicle ownership;
- Change of vehicle;

New applicants wishing to licence a Hackney Carriage with Cotswold District Council will be required to make a statement on their application form about their intended use of the vehicle, i.e., whether the applicant intends the vehicle to be used.

- i. Exclusively or predominantly to ply for hire/or take advance bookings in the Cotswold District (that is determined as 80% of the time; the journey may finish outside of Cotswold District) - **Complies with policy**
- ii. Exclusively or predominantly (more than 20% of the time) operate taking pre booked journeys from operators outside of the Cotswold District - **fails to comply with policy, presumption of refusal**

#### **Renewal of a Hackney Carriage vehicle licence**

The driver or operator will need to maintain an accurate record of all uses of the vehicle when being used to fulfil pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. The record should contain:

- Name and address of the operator on behalf of which the journey was being undertaken; pick up point and destination date and time.
- Evidence of the number of days over the previous year they have plied for hire in the Cotswold District.

If the records maintained show the vehicle use fails to comply with the policy, (see (ii) above, there will be a presumption of refusal of renewal.

### **Existing Licence Holders**

Where a licence has been granted under the terms that the applicant intends to ply for hire or trade to a material extent within the Cotswold District but is subsequently found not to be plying for hire to a material extent in the District and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) will be referred to the Licensing Sub-Committee for determination.

### **Exceptional Circumstances**

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

## Annex 5

### Policy guidelines for signage, advertising and other markings on licensed vehicles

Vehicle markings which comply with the following conditions do not require approval by the Licensing Officer:

Hackney Carriages: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 457mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.

All signage, advertising and other markings which do not fall within the condition shown above **must be given the Council's prior approval**. Further details are as follows:

1. Third-party advertising (i.e. carrying adverts for companies other than the proprietor's own business) on licensed Hackney Carriage (HC) and Private Hire (PH) vehicles must have the prior approval of the Council's Licensing Sub-Committee. Applications should be made in writing including a pictorial representation of the proposals. A meeting of the Licensing Sub-Committee will then be arranged to consider the proposal. **No third-party advertising is permitted without the prior approval of the Licensing Sub-Committee.**
2. For further details about applying to the Sub-Committee for third-party advertising, please contact the Licensing Officer.
3. The Licensing Officer has the authority, on behalf of the Sub-Committee, to approve other signage and markings on vehicles, such as the name of the Hackney Carriage / Private Hire business, contact details, the services provided (e.g. "Airport Runs") etc. No such signage is permitted until the Licensing Officer has seen and approved the proposals.
4. In order to make an application to have such markings on a HC or PH vehicle, proprietors should submit their proposal in writing to the Licensing Officer, including a full description of the advertising they intend to have on the vehicle and a pictorial representation such as a sketch or a photograph of similar markings.
5. The HC / PH proprietor must ensure that any proposed signage, advertisements and markings do not breach advertising standards industry guidelines.
6. Advertisements must not be of a racial, sexual, political or religious nature and must not be discriminatory or offensive.
7. Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view and must conform to national legislation concerning the placing of such signs on vehicle windscreens.
8. Once the Licensing Officer has given written approval, the HC / PH proprietor may proceed with the advertising as submitted in the original proposal.
9. If the Licensing Officer deems the proposed signage, markings or advertising to be inappropriate, the request will be refused.
10. HC / PH proprietors may appeal to the Licensing Sub-Committee if their proposal has been refused.

## Annex 6

## Service Delivery Timescales for Hackney Carriage and Private Hire Applications

| Type of application | Delivered to licence holder           |
|---------------------|---------------------------------------|
| Driver - New        | 5 days                                |
| Driver - Renewal    | 7 days                                |
| Vehicle - New       | 5 days                                |
| Vehicle - Renewal   | 7 days                                |
| Vehicle Transfer    | 1 working day                         |
| Customer query      | 5 days                                |
| Complaints          | Initial response within 5 days        |
| Serious allegation  | Initial response within 1 working day |

**These timescales are based on a full and valid application being submitted. Any invalid applications will be returned to the applicant and may result in further delays.**

**Renewals should be submitted at least 7 days before the expiry date to guarantee that they are issued prior to expiry.**

## Annex 7

## Table of Delegations

| <b>Matter to be dealt with</b>  | <b>Full Committee</b> | <b>Sub-Committee</b>   | <b>Licensing Officers</b>                |
|---|-----------------------|--|--|
| Full policy review  | All cases             |  |  |
| Application for driver's licence, with no convictions                     |                       |  | All cases                                |
| Application for driver's licence, with relevant convictions               |                       | Cases where referral for determination required, other than traffic offences | Cases in relation to traffic offences    |
| Suspension of driver's licence (public safety)                            |                       | All cases where referral for determination required                          |  |
| Revocation of driver's licence (public safety, immigration)               |                       | Cases where referral for determination required                              | Cases where immediate effect required    |
| Application for vehicle licence   |                       |  | All cases                                |
| Suspension of vehicle licence (public safety)                             |                       |  | All cases with a reasonable cause        |
| Revocation of vehicle licence (public safety)                             |                       | Cases where referral for determination required                              | Cases where immediate effect is required |
| Application for operator's licence  |                       |  | All cases                                |
| Application for operator's licence, with relevant convictions             |                       | All cases where referral for determination required                          |  |
| Suspension of operator's licence (public safety)                          |                       | All cases where referral for determination required                          |  |
| Revocation of operator's licence (public safety)                          |                       | Cases where referral for determination required                              | Cases where immediate effect required    |
| Assistance dogs in taxis: exemption certificate request forms             |                       |  | All cases                                |
| Decision on whether a complaint is irrelevant, frivolous, vexatious, etc. |                       |  | All cases                                |

Annex 8

Copy of Gloucestershire's Common Licensing Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire



**COTSWOLD**

District Council

Common Licensing Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire

Adopted by Forest of Dean District Council's Licensing Committee  
15th September 2021

Commencement 1st October 2021



**COTSWOLD**  
District Council



**CHEL TENHAM**  
BOROUGH COUNCIL



**Forest of Dean**  
— DISTRICT COUNCIL —



**Tewkesbury**  
Borough Council



**Gloucester**  
**City Council**  
Transforming Your City

# Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire

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## Introduction

1. Following the publication of the Department for Transport's ("DfT") Statutory Taxi and Private Hire Vehicle Standards ("the statutory guidance"), the licensing authorities for Gloucestershire has adopted common standards for licensing of hackney carriage and private hire drivers, vehicle proprietors and operators. Please refer to the scope below for further information. These common standards are based on the statutory guidance.
2. The purpose of these common standards is to set a common basic licensing standard for all licence holders and new applicants to promote best practice, maintain high safeguarding standards and to reduce the burden on licence holders and businesses.
3. The scope of the common standards are outlined below and individual licensing authorities retain the right to set its own licensing standards for aspects that are not included in scope.

## Licensing Authorities

The Gloucestershire licensing authorities that have signed up to the commons standards are:

1. Cotswold District Council
2. Forest of Dean District Council
3. Gloucester City Council
4. Stroud District Council
5. Cheltenham Borough Council
6. Tewkesbury Borough Council

## General Principles

### Licensing Policies

Each licensing authority that has adopted these common standards will have a comprehensive and a cohesive licensing policy document that brings together procedures on taxi and private hire vehicle licensing including these common standards.

Licensing policy documents will be reviewed every five years or more frequently should there be significant issues arising in their area, and their performance annually. Changes to adopted policies will be consulted on as appropriate including the local licensed trade, with licensing authorities that have adopted these common standards and other key stakeholders.

Any changes in licensing policy and/or requirements will be followed by a review of the licences already issued in accordance with the statutory guidance and on a case to case basis.

### Ancillary Policies

Although not in scope of these common licensing standards, each licensing authority that has adopted these common standards will have in place the following ancillary policies:

- Whistleblowing policy and procedure for raising concerns about licensing matters and procedures
- Data sharing agreements and processes to enable sharing licensing information with other licensing authorities
- Procedure(s) for immediate suspension and revocation of licences as circumstances dictate.

### Regulatory Structure

Each licensing authority that has adopted these common standards will operate its licensing function in accordance with its own scheme of delegation.

## Enforcing the Licensing Regime

The licensing authorities that have adopted these common standards collectively acknowledge the importance of a fair and robust enforcement scheme and approach.

To this end, the following measures have been adopted:

1. Common Enforcement and Complaints Policy & Procedure (Appendix C)
2. Joint authorisation of enforcement officers off the licensing authorities that have adopted these common standards;
3. Information sharing agreements between the licensing authorities that have adopted these common standards

## Specific Policies & Procedures

### Fit & Proper

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. The question of whether a person is a fit and proper person will be based on the following standard:

*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?*

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

The overriding consideration will be safeguarding the public. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the Licensing Sub-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.

Licensing officers are delegated in accordance with the table set out in **Appendix A** including for dealing with serious matters that may require the immediate action in relation to a licence.

### Information Sharing

#### Criminal records checks and information

The assessment of fit and proper includes, amongst other things, an assessment of an applicant or licensee's character and any relevant information relating to current or previous history.

Hackney carriage and private hire applicants or licensees will be subject to enhanced criminal records checks through the Disclosure & Barring Service (DBS) including checks against the national barred list.

The DBS check must satisfy the following:

- Workforce must state 'Other Workforce'
- Child and Adult Barring lists must be included

**Appendix B**, outlines the common standards for rehabilitation times relating to criminal records and other relevant matters outlined.

Hackney carriage and private hire applicants or licensees must be subscribed to the DBS's Update Service.

Each of the licensing authorities that have adopted these common standards will undertake six monthly enhanced DBS checks including checks against the children and adult Barred Lists for licensed drivers. The six month checking requirement will be brought into scope once these standards have been adopted (Autumn 2021).

In the interests of public safety, a licence is unlikely to be granted to any individual that appears on either barred list.

Each of the licensing authorities that have adopted these common standards will have also subscribe to the national refusals database (NR3). Hackney carriage and private hire applicants or licensees must declare on application whether they have had a hackney carriage and private hire driver's licence refused or revoked by another authority. Each applicant and licensee's application will be checked against the NR3 database to confirm if the information declared is correct and accurate.

Licence refusals and revocations will also be recorded on NR3 database. A decision to refuse or revoke a licence where this decision related to a risk of harm to a child or vulnerable adult, will be referred to the DBS and Gloucestershire Constabulary.

### Licensee self-reporting

Licence holders are 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 mentioned above is likely to result in a review by the issuing authority as to whether the licence holder is fit to continue.

Please also refer to the relevance of convictions policy at **Appendix B** for more information on the relevance of other convictions, arrests, cautions and criminal investigations.

### Complaints against licensees

Licensees are required to display, in their licensed vehicles, guidance for passengers on making complaints directly to the licensing authority. The guidance for passengers must be displayed where it can easily be read. Signage to be displayed in licensed vehicles showing the guidance will be issued by the licensing authority. The signage will include:

- the licensing authority's name, contact email and address,
- the vehicle plate number for reference when making complaint,
- the licensing authority's website address where there will be further information for passengers about how to make complaint.

Licensees who are found to not be displaying the complaint guidance face a suspension of their vehicle licence and a possible review of their driving licence.

Complaints will be recorded, investigated and appropriate action taken in accordance with the Enforcement and Complaints policy at **Appendix C**.

### Certificate of Good Character

Where any applicant has been resident abroad at any time from the age of 18 prior to an application they must provide a Certificate of Good Conduct, a Criminal Record Check or similar document from each and every country within which they have been resident.

Residency for these purposes is considered by this Licensing Authority as where the person has lived in a country for longer than 6 months in a given calendar year. Where this Certificate has been produced in a non-English language, the applicant is required to produce a translation of the Certificate from the Embassy or Consulate of that country and provide the original document. An exception might be permitted where a refugee has been allowed to stay in the UK and has been given asylum, and this exception will only apply to that country.

[Criminal records checks for overseas applicants](#), will assist you further in obtaining this document.

## Immediate suspension and revocation of licences

Where it comes to the attention of a licensing authority that the fitness of a licence holder has been called into question, which raises concerns as to whether the relevant licence holder should be allowed to continue to operate under their licence and that decision cannot wait until the next scheduled Licensing Sub-Committee, the licensing authority will decide if immediate action is necessary under its own scheme of delegation. Immediate action can include a decision to suspend or revoke the licence.

Circumstances that might give rise to concern about the fitness of a licence holder would include, for example, serious complaint, criminal investigation, serious allegation, formal caution, conviction or any other circumstances deemed sufficiently serious that requires immediate action.

For the avoidance of doubt, licence holder relates to a driver, vehicle and/or operator licence.

## Hackney Carriage & Private Hire Drivers

### Duration of licences

Hackney carriage and private hire driving licences will be granted for a standard period of three years.

Individual licensing authorities retain the right to issue shorter driving licences in exceptional circumstances where circumstances deems this appropriate.

### Mandatory Training

Applicants for a hackney carriage or private hire driving licence must undertake mandatory safeguarding and equality awareness training prior to the issue of their licence. A common training approach and provision has been adopted by licensing authorities that have adopted these common standards.

Existing licensees will be required to undertake refreshers training every three years as a condition of the grant of their licence.

### Language proficiency

The assessment of fit and proper includes an assessment of an applicant or licensee's English language proficiency. A lack of English 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.

Applicants for a hackney carriage or private hire driving licence must therefore have a sufficient English language proficiency and be able to demonstrate this.

Some applicants may not be required to take the English proficiency test. This is the case if they can demonstrate their ability to communicate in English by providing an appropriate educational certificate for a qualification related to English. Acceptable qualifications may include a GCSE (or equivalent) in a subject such as English language or literature, a degree in a subject containing substantial English content, or an NVQ or BTEC in a subject that requires its students to communicate well in English.

If applicants are unable to provide such a certificate, or if the licensing officer is not satisfied that the certificates provided sufficiently demonstrate the applicant's ability to communicate in English, the applicant will need to pass the English proficiency test.

English language proficiency requirements will apply to new applicants from date of adoption of these standards however, discretion remains to refer existing licence holder for an assessment on a case to case basis.

## Hackney Carriage & Private Hire vehicle proprietors

### Criminality checks for vehicle proprietors

Licensed vehicle proprietors will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the vehicle licence.

Whether a licensed vehicle proprietor is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at Appendix A.

Should the licensed vehicle proprietor cease to hold a driver hackney carriage or private hire driver licence a basic certificate should will be required immediately.

A refusal to license an individual as a hackney carriage or private hire driver or to suspend or revoke a driver licence, does not automatically mean that that individual cannot be issued or continue to hold a hackney carriage of private hire vehicle or private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a vehicle proprietor will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the 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.

## Private Hire Operators

### Duration of licences

Private hire operating licences will be granted for a standard period of five years.

Individual licensing authorities retain the right to issue shorter driving licences in exceptional circumstances where circumstances deems this appropriate.

### Criminality checks for private hire vehicle operators

Licensed private hire operator(s) will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the operating licence.

Whether a private hire operator(s) is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at **Appendix B**.

Should the private hire operator(s) cease to hold a driver hackney carriage or private hire driver licence, a basic certificate should will be required immediately.

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.

Under these circumstances, a decision on the fitness and propriety of a private hire operator(s) will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the 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.

A private hire vehicle operator licence may be applied for by a company or partnership. In this case, the 'fit and proper' test will apply to each of the directors or partners in that company or partnership.

A licensed private hire operator issued to a company or partnership must advise the licensing authority of any change in directors or partners. Any change to directors or partners will require additional criminality checks.

### Booking and dispatch staff

Licensed private hire operator(s) will be subject to a licence condition ensuring that all booking and dispatch staff have had a basic DBS check. In addition, private hire operators must ensure they have written policies and procedures in place to:

- a. ensure criminality checks are undertaken on all booking and dispatch staff at appropriate intervals;  
and
- b. set out its approach on employing all booking and dispatch staff that are ex-offenders.

Where a licensed private hire operator has outsourced its booking and dispatch function that licensed private hire operator must ensure the third-party have adequate arrangements in place as outlined above.

## Record keeping

As a common standard enforced by way of a licensing condition, all licensed private hire operators will be required to record the following information for each booking accepted:

- 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.

## Appendix A - Table of Delegations

| <b>Matter to be dealt with</b>  | <b>Full Committee</b> | <b>Sub-Committee</b>   | <b>Licensing Officers</b>             |
|---|-----------------------|--|---------------------------------------|
| Full policy review  | All cases             |  |                                       |
| Application for driver's licence, with no convictions                     |                       |  | All cases                             |
| Application for driver's licence, with relevant convictions               |                       | Cases where referral for determination required, other than traffic offences | Cases in relation to traffic offences |
| Suspension of driver's licence (public safety)                            |                       | All cases where referral for determination required                          |                                       |
| Revocation of driver's licence (public safety, immigration)               |                       | Cases where referral for determination required                              | Cases where immediate effect required |
| Application for vehicle licence   |                       |  | All cases                             |
| Suspension of vehicle licence (public safety)                             |                       |  | All cases with a reasonable cause     |
| Revocation of vehicle licence (public safety)                             |                       | Cases where referral for determination required                              | Cases where immediate effect required |
| Application for operator's licence  |                       |  | All cases                             |
| Application for operator's licence, with relevant convictions             |                       | All cases where referral for determination required                          |                                       |
| Suspension of operator's licence (public safety)                          |                       | All cases where referral for determination required                          |                                       |
| Revocation of operator's licence (public safety)                          |                       | Cases where referral for determination required                              | Cases where immediate effect required |
| Assistance dogs in taxis: exemption certificate request forms             |                       |  | All cases                             |
| Decision on whether a complaint is irrelevant, frivolous, vexatious, etc. |                       |  | All cases                             |

## Appendix B – Relevance of Convictions Policy

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### GLoucestershire LICENSING AUTHORITIES – TAXI AND PRIVATE HIRE CONVICTIONS POLICY

#### INFORMATION FOR APPLICANTS AND EXISTING LICENCE HOLDERS

1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.
2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused or an existing licence holder will have their licence revoked. For other offences the policy gives the timescales that it is expected will have elapsed since the conviction before an application will be granted.
3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Licensing Sub-Committee for consideration who will take account of this policy. The obligation will be on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Licensing Sub-Committee to consider.
4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made within 21 days of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may **not** use the licence until any decision is made by the Court
6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser or those offences not included. It is not reasonable that those licences should be automatically be revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

## **OVERVIEW**

7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.
8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction checks on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
11. Taxi 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.
12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex - Assessment of Previous Convictions. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- 13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.**
14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:
  - Relevance and date of the offence
  - Sentence imposed by the court
  - Age of person and circumstances when the offence was committed
  - Subsequent periods of good behaviour
  - Overall conviction history

- Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
  - Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process
  - Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services
  - Any other matters that are relevant
16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
  17. A caution is regarded in exactly the same way as a conviction.
  18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
  19. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no "spent" convictions and that any and all criminal convictions (apart from "protected convictions" and "protected cautions" where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered
  20. 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. 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.
  21. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
  22. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
  23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
  24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

25. 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.
26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
27. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## **OFFENCES**

### **Crimes resulting in death**

31. 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 (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licence holder who is convicted of the above will have their licence revoked.

### **Exploitation**

32. 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, financial abuse, domestic abuse, harassment and stalking but this is not an exhaustive list.

### **Offences involving violence against the person**

33. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children, young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.
34. 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. A licence holder convicted of the above will have their licence revoked

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm
- c. Actual bodily harm
- d. Grievous bodily harm with intent
- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- l. Affray
- m. Obstruction

### **Possession of a weapon**

35. 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. A licence holder convicted of the above will have their licence revoked

### **Sexual offences**

36. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.
37. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked
38. 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. A licence holder who goes on any of the above will have their licence revoked

39. Sexual/Indecency Offences include (this is not an exhaustive list)
- a. Rape
  - b. Assault by penetration
  - c. Offences involving children or vulnerable adults
  - d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
  - e. Making or distributing obscene material
  - f. Possession of indecent photographs depicting child pornography.
  - g. Sexual assault
  - h. Indecent assault
  - i. Exploitation of prostitution
  - j. Soliciting (kerb crawling)
  - k. Making obscene / indecent telephone calls
  - l. Indecent exposure
  - m. Any similar offences (including attempted or conspiracy to commit) offences
40. Any licence holder charged with, convicted or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

### **Dishonesty**

41. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously
42. 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. A licence holder convicted of any of the above will have their licence revoked
43. Dishonesty offence includes (this is not an exhaustive list)
- a. Theft
  - b. Burglary
  - c. Fraud
  - d. Benefit fraud
  - e. Handling or receiving stolen goods
  - f. Forgery
  - g. Conspiracy to defraud
  - h. Obtaining money or property by deception
  - i. Other deception
  - j. Any similar offence

## **Drugs**

44. 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.
45. 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. A licence holder convicted of the above will have their licence revoked

## **Discrimination**

46. 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. A licence holder convicted of the above will have their licence revoked
47. Examples of Discrimination offences include (this is not exhaustive list)
  - a. Racially aggravated common assault
  - b. Any racially-aggravated offence against a person or property.
  - c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
  - d. Offences under Equality Act 2010
  - e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

## **Motoring convictions**

48. 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.
49. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. <https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>
50. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years they are 'valid' for 10 years. There is more information on the Government's

website <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>

51. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
52. Where an applicant has a major conviction the application will be refused whilst the relevant points remain 'valid' on their driving licence.
53. 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 Licensing Authority considers that the licensee remains a fit and proper person to retain a licence.
54. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of up to 6 points, a licence holder can agree to complete a driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Licensing Sub-Committee
55. Where a licence holder has more than 6 valid penalty points for driving offences their licence will be revoked.

#### **Drink driving/driving under the influence of drugs**

56. 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. A licence holder convicted of the above will have their licence revoked

#### **Using a hand-held device whilst driving**

57. 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. A licence holder convicted of the above will have their licence revoked.
58. Where the offence is dealt with as driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least four years have passed. This is the length of time these points remain current of the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a held-hand mobile telephone or a hand-held device, will have their licence revoked.

**Hackney Carriage and Private Hire Offences**

59. Where an applicant has any offences under any relevant hackney carriage or private hire legislation a licence will not be granted until at least 7 years have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked

## Appendix C - Enforcement and Complaints Policy & Procedure

### **Enforcement**

This policy takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring in the vehicle for an inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

### **Complaints by the Public**

The public are able to make complaints to the licensing service about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing Officers will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing Officers may request the licence holder to attend an interview in order determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

### **Actions that may be Taken Following Enforcement or Complaint**

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public

| <b>Action</b>   | <b>Examples (but not an exhaustive list)</b>  |
|---|---|
| Take no action  | <ul style="list-style-type: none"> <li>• Breach, offence or complaint is proven to be false.</li> <li>• Matter is minor or unproven and there is no previous history</li> </ul>   |
| Verbal or written advice for example recommendation to re-take driver assessment test | <ul style="list-style-type: none"> <li>• Matter is minor and/or due to misunderstanding by the licence holder</li> </ul>  |
| Verbal or written warning   | <ul style="list-style-type: none"> <li>• Complaint made by the public</li> <li>• Minor traffic offence</li> <li>• Contravention of the code of conduct or dress code</li> </ul>   |
| Fixed penalty notice  | <ul style="list-style-type: none"> <li>• Smoking offences in a licensed vehicle</li> </ul>  |
| Immediate suspension or revocation of licence   | <ul style="list-style-type: none"> <li>• Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective</li> <li>• Suspension of driver licence (s 61 (2B) if in interest of public safety for example failing a medical, safeguarding or serious criminal allegations</li> <li>• Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical</li> </ul>  |
| Suspension of licence – 21 days notice  | <ul style="list-style-type: none"> <li>• Suspension of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory</li> </ul>  |
| Simple caution issued by authorised officer   | <ul style="list-style-type: none"> <li>• A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending</li> </ul>   |
| Review of the licence by the Licensing Sub-Committee                                  | <ul style="list-style-type: none"> <li>• A licence holder receives criminal conviction, police caution, major motoring offence, safeguarding concern or serious complaint or allegation</li> <li>• A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk</li> <li>• A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period</li> <li>• A licensed driver who has accumulated more than 6 current points on their driving licence</li> <li>• Any matter where a possible outcome is the revocation of the licence</li> </ul> |
| Prosecution   | <ul style="list-style-type: none"> <li>• Using an unlicensed vehicle</li> <li>• Unlicensed driver driving a licensed vehicle</li> <li>• Unlicensed operator</li> <li>• Driving without valid insurance</li> <li>• Refusing to carry a guide dog</li> <li>• Exceeding the number of passengers on the plate</li> </ul>   |

### **Review of the Licence by the Licensing Committee**

The licence holder will be invited to a Licensing Sub-Committee meeting. The licence holder will be given reasonable notice of the meeting. However, if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take an anger management course, safeguarding or disability awareness training, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

### **Right of Appeal**

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).

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