

# **Canterbury City Council**

## **Taxi and Private Hire Policy**

### ***A SAFE, COMPETENT AND HIGH QUALITY SERVICE FOR ALL***

Canterbury City Council licences hackney carriage (taxi) and private hire drivers, vehicles and operators. It has adopted the Local Government (Miscellaneous Provisions) Act 1976 together with the Town Police Clauses Act 1847 and the Public Health Act 1875

**Commencement date: 08 February 2021**

Policy adopted by the Policy Committee on 08 February 2021

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- 1.0 Introduction**

- 1.1.1 This policy has been prepared by the council. It has been consulted upon with the public, relevant authorities and the taxi and private hire trades.

Taxi and private hire licensing only covers services provided for commercial gain.

Taxi and private hire licensing does not cover carriage of a passenger as an ancillary or incidental part of another service, eg cars provided by hotels for their guests.

Throughout the drafting and consultation process the council has emphasised that the policy provides guidelines that will be applied with flexibility and common sense to applications. Enforcement matters will be addressed with transparency and fairness but robustly when dealing with serious and / or repetitive issues of non-compliance and enforcement.

The council and members of the professions are committed to establishing a 'Canterbury brand' that is synonymous with safety and quality.

**The policy of the 12 April 2017 has been revised to take into account the following issues:**

**1. The drive towards improving air quality and reducing pollution and the implementation of low emission taxi and private hire vehicle schemes.**

The council has a legal duty to improve air quality throughout the district and in particular in areas of high pollution, e.g. town and city centres. Taxi and private hire vehicles (TPH) have a disproportionate impact on air quality impacting human health. This is due to the relatively high mileage they cover and their concentrations in busy urban areas such as town centres, railway and bus stations and supermarkets where large numbers of pedestrians are present. Emissions produced by these vehicles not only have an impact on the health of the local population but also on the drivers who may be exposed to poor air quality for 8 to 12 hours per day. Local traffic is responsible for some 80% of nitrogen oxide emissions and as much of the TPH trade is local, the fleet although making up a small proportion of local traffic in urban areas can be responsible for a significant part of the total. Vehicles manufactured before 2016 cause the majority of local air pollution.

Air quality improvements should be delivered in the shortest time possible. Canterbury City Council declared a climate change emergency in July 2019 with the aim of achieving zero carbon emissions by 2030. Achieving zero carbon transport emissions by 2030 is a bold ambition and possibly unachievable as it is dependant on emerging issues with access to and availability of Electric Vehicle (EV) charging points and the number, price, availability, suitability (space and range) of battery electric vehicles (BEV). However, we believe that by setting out such an ambition we are more likely to achieve progress as quickly as possible. Should technical changes and supply logistics not develop sufficiently to meet our target, our policy would be reviewed and amended accordingly.

We should therefore attempt to make air quality improvements in the shortest time possible and work towards the decarbonisation of the fleet by 2030.

As a licensing authority, we have a responsibility to promote cleaner air objectives by ensuring that within our licensing regime we have set standards around the age and type of vehicles permitted to be part of our taxi and private hire fleet. This is to reduce the adverse effect of diesel and petrol vehicle emissions on local air quality. This is in line with regional and national objectives and for the benefit of the community as a whole. This process will be progressively amended as improved technology brings cleaner vehicles onto the market with the eventual aim of eliminating petrol and diesel fuelled vehicles from the fleet.

We have taken due account of the DfT sponsored 'Low Emission Taxi Guide' (LETG) and the DfT 'Road to Zero' (2018) strategy towards cleaner road transport in deciding the changes we wish to introduce. The LETG is a 2019 publication and gives us the latest information on the subject.

Evidence from real world emissions testing shows that there is a wide range of actual emissions from vehicles on the road. Older petrol vehicles (Euro 5 and below) and older

Euro 6 diesel vehicles emit more air pollution than Euro 6 petrol vehicles and newer Euro 6 diesel vehicles. It should be noted that the Canterbury TPV fleet is predominantly diesel. However, a move to petrol would not help as petrol driven vehicles emit more CO<sub>2</sub> than diesel ones. Diesel vehicles are improving year on year in terms of emissions and those registered in 2020 (E6d) will be the cleanest yet. We also know that EV vehicles are not the only solution as new diesel hybrid electric vehicles (HEV) and plug-in hybrid electric vehicles (PHEV) are much cleaner and can reduce carbon emissions too (by as much as 37%).

In order to promote the use of full electric and hybrid vehicles, a phased transition period will be introduced with fixed target dates along with other measures and benefits as an incentive to licence holders to encourage the use of cleaner vehicles and to allow them to formulate future business plans accordingly. These will be:

- The entire fleet will be required to be low emission, (LEV) either all electric, electric/fuel hybrid or Euro 6 diesel and Euro 6 petrol compliant by 1 August, 2022. Older vehicles will have over 3 times and with some as much as 6 times the permitted emissions limit of Euro 6 diesel and petrol.
- From 1 August 2020 battery electric vehicles (BEV) will be licensed for 10 years and extended range electric vehicles (E-REV), plug in hybrid vehicles (PHEV), fuel cell electric vehicles (FCEV-hydrogen vehicles) will be licensed for 7 years with potential annual renewal upon inspection thereafter to a maximum of 10 years.
- From 1 August, 2020 all Euro 6 diesel and Euro 6 petrol vehicles will be licensed for a maximum period not to exceed 1 August, 2025. Any Euro 6 diesel or Euro 6 petrol driven TPH licensed before 1 August, 2020 will also cease to be licensed on 1 August, 2025.
- All TPH vehicles will be required to be ultra low emission (ULEV), by 1st August, 2025 which means either: battery electric vehicle (BEV), extended range electric vehicle (E-REV) plug in hybrid electric vehicle (PHEV) or fuel cell electric vehicle (FCEV-hydrogen vehicle)
- The entire fleet should be all electric by 1 August, 2030.
- A sliding scale of fees so that the cleanest vehicles pay the lowest licence fees.
- Reserved fast charging points on the front of taxi ranks for electric / hybrid vehicles.
- More flexible advertising opportunities for electric black cabs to offset the purchase costs.
- Vehicles fitted with stop/start technology, must not turn that facility off at any time when the vehicle is operating as a taxi or private hire vehicle.
- Drivers waiting on a taxi rank must not operate the vehicle's engine for more than 60 seconds whilst stationary.

These changes will benefit the licensing authority, operators and drivers and customers alike. The adoption of low emission TPH vehicles can help to improve air quality and reduce greenhouse gas emissions from road transport and have a positive impact on residents' health. For operators and drivers, applying a whole life cost analysis often shows that best in class vehicles are cheaper to operate than conventional and older technology. The new licensing regime will favour low emission taxis. For customers the journey will be more comfortable as electric vehicles and hybrids are quieter and smoother than conventional vehicles.

The fundamental aim of this policy is to ensure that members of the public know that if they choose to use a vehicle licensed by Canterbury City Council, it will be a quality, environmentally friendly car driven by a safe and suitable driver.

## **2. The publication of the Institute of Licensing's**

***Guidance on determining the suitability of applicants and licenses in the hackney and private hire trades***

## ***Safe And Suitable?***

***April 2018”.***

The Guidance provides, for the first time, the opportunity for all licensing authorities to adopt a consistent national standard and approach which incorporates not just the criminal history of an applicant but any relevant behaviour. The ‘fit and proper person’ test will be brought to up-to-date with the terminology ‘safe and suitable.’

### **3. National Register of Refusals and Revocations**

Participation in the Local Government Association’s initiative to create a *National Register of Refusals and Revocations (NR3)*, hosted by the National Anti-Fraud Network.

NR3 has been developed to improve public safety and confidence in hackney carriage and PHV licensing. There have been numerous high profile cases where drivers who have been refused licences or had a licence revoked in one area have gone to another area and received a licence in that area by failing to disclose their previous history. This undermines public safety, if there are legitimate reasons why a licence was refused or revoked, and damages confidence in the hackney carriage / phv licensing regime and trade. This is why the initiative has been widely supported by reputable drivers and firms, as it will provide a mechanism for ensuring information about refusals and revocations can be shared between all licensing authorities in a safe and secure way, removing this potential loophole.

Licensing authorities are legally required to consider each licence application on its own merits, and cannot refuse an application simply because an applicant may be recorded on NR3. The purpose of NR3 is to ensure that authorities have the full information necessary to help them reach a decision on whether an individual is ‘safe and suitable’.

### **4. Statutory Taxi & Private Hire Vehicle Standards**

Up-dating / amending the current policy to ensure compliance with the Department of Transport’s ‘*Statutory Taxi & Private Hire Vehicle Standards*’ published July 2020. The National Standards can be viewed via <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

- 1.1.2 Canterbury City Council (the ‘licensing authority’) regularly reviews its policies to reflect changes in legislation, government guidance, other relevant council policies, including the corporate plan, transport strategy, good practice, local needs, technological developments and reports such as the Rotherham report. The overriding principle of this policy is public safety.

#### **1.2 Timetable**

The Policy adopted on 12 April 2017 has been reviewed in order to

- (a) promote more environmentally friendly vehicles and
- (b) incorporate the *Institute of Licensing’s Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades*  
*Safe and Suitable?*

- (c) join the National Register of Taxi Licence Refusals and Revocations NR3
- (d) incorporate into the policy the Department of Transport's '*Statutory Taxi & Private Hire Vehicle Standards*' published July 2020

The policy should be adopted by January 2021.

### **1.3 Standard – 'An excellent, professional and safe service for all'**

Every aspect of the policy, from first application to enforcement, has been drafted with this standard in mind.

The policy seeks to achieve the following objectives:

- health and safety of the public and the drivers
- promotion of the findings of the Rotherham report
- promotion of a professional and respected hackney carriage (taxi) and private hire trade
- prevention of crime and disorder
- promotion of compliance with policy, legislation, bye-laws etc
- improvement of the local environment, in particular air quality, economy, employment and quality of life
- promotion of an excellent service by the council to drivers and operators
- adherence to robust and efficient enforcement procedures
- promotion of the council's pledges in its corporate plan
- to ensure that in its decision making the council takes proper account of the Human Rights Act, particularly Article 8, 'the right to a private life'.

#### **1.3.1 Safety**

The licensing authority helps to develop safe drivers by making regular disclosure and barring service (DBS) checks, medical assessments and driving tests. The council retains the right to ask a driver for up-dated DBS check at any time.

Drivers and operators must submit six monthly declarations to confirm that their DBS, medical status and criminal record (including all traffic offences) has not changed.

The council maintains safe vehicles through regular Ministry of Transport testing, checking insurances, minimum standards as to age and condition of vehicles, and an annual inspection regime for all taxi and private hire vehicles at licence renewal.

#### **1.3.2 Professionalism**

a. The council develops professionalism in its drivers by testing them to make sure they have achieved an acceptable standard in different areas of competence and knowledge including:

- a working knowledge of English required to be a driver
- reading, writing, numeracy and listening skills
- Highway Code
- routes throughout the district
- taxi and private hire licensing conditions
- byelaws
- relevant legislation

- disability awareness
- child sexual exploitation awareness
- safe guarding awareness
- vehicle maintenance.

b. Driving

All taxi and private drivers must also pass an approved taxi driving test.

Note: Private hire drivers will not have to take this test if it is not included in the national standards set by the Secretary of State in due course.

- c. The council runs an on-going training programme for its staff and councillors so that they can process applications, investigate complaints and enforce alleged breaches of the policy and law proficiently and expeditiously.

**1.3.3 Excellence**

The council expects its drivers and operators to deliver an excellent service to the public.

The council seeks to deliver excellent and fair administrative and enforcement services to the public and the trades.

**1.4 Officers and decision making**

- 1.4.1 The council's constitution explains how decision-making powers are delegated to councillors and officers.

- 1.4.2 Where an officer has the power to make any decision he / she will have a written note of his / her power to do so if the delegation is not detailed in this policy.

**1.5 Fees**

- 1.5.1 Applicants must pay the fees for their application as set out in the policy. Once fees become payable an application will not proceed any further until they are paid. It is permissible to pay the application process elements of the fee initially (Stage 1) and the second part of the fee on the issue of the licence (Stage 2). Fee payments must be cashless.

- 1.5.2 A schedule of fees is available on the council's website. The schedule is reviewed each year and in conjunction with a review of the policy every three years. Fees reflect the cost of the administrative costs of the licensing regime, processing applications, compliance and enforcement of licenced and unlicensed operators, drivers and vehicles etc.

The principle of 'cost recovery' will apply in respect of taxi and private hire licensing fees.

Licensing authorities are able to collect and use licensing fees from taxi and private hire licensing for the following purposes:

- 1) administration of the licensing system (including but not limited to processing applications for granting or renewing licences and carrying out inspections and tests) – taxi and phv
- 2) statutory required reviews of fare levels, rank provision, accessibility and existing quantity restrictions at least every three years – taxi only
- 3) enforcement of the licensing system including but not limited to the control and supervision of taxi and private hire services (whether licensed or unlicensed) and activities associated with suspending or revoking licences.

### 1.5.3 Dual badge holders

If a driver wishes to convert his / her current hackney driver or private hire driver badge to a dual driver's badge, the fee due is the full dual badge fee, less the pro-rata value of the fee remaining on the current badge, plus an administration fee to cover costs of up-dating records, and producing new badges and completing a dual badge test. An application to convert to a dual badge will be treated as if it is a new application and as such the council will consider (a) whether the applicant is a 'fit and proper person / safe and suitable' and / or (b) whether there are any current issues to consider, eg enforcement proceedings and appeal hearings.

1.5.4 Appeal fees to the magistrates' court or crown court are paid directly to the court administration officer. See 11.7 and Appendix 1.

## 1.6 Fares

1.6.1 Taxi fares must be charged in accordance with the rates approved by the licensing authority.

Department for Transport

Taxi and Private Hire Vehicle Licensing: Best Practice Guidance 2010 states:

"The driver will:

- Use the meter within the licensed area, unless the passenger has agreed to hire by time.
- If using the meter, not start the meter until the passenger is seated in the vehicle.
- If travelling outside the licensed area, agree the fare in advance. If no fare has been negotiated in advance for a journey going beyond the licensing area then the driver must adhere to the meter.
- Take the most time-efficient route, bearing in mind likely traffic problems and known diversion, and explain any diversion from the most direct route."

See 7.10.2 for clarification as to the licensing authorities' requirement to use a meter.

1.6.2 Private hire fares are the reasonable amounts agreed between driver and customer.

Department for Transport

Taxi and Private Hire Vehicle Licensing: Best Practice Guidance 2010 states:

"The driver will:

- Ensure that the passenger has pre-booked and agrees the fare before setting off.
- Take the most time-efficient route, bearing in mind likely traffic problems and known diversions, and explain any diversion from the most effect route."

1.6.3 Applications to increase fare rates will be considered by the council on request in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.

The licensing authority retains the power to regulate taxi fares in respect of any journey within the compellable distance.



A taxi driver is allowed to charge more than the metered fare for journeys starting inside the licensing area and ending beyond the compellable distance only if this is agreed in advance. In the case of a pre-booked journey starting outside the compellable distance, the price / estimate should be given on request by the passenger, and, if so, recorded.

The licensing authority retains the power to regulate fares charged for pre-booked taxi journeys (there is no power to regulate third party booking fees), providing these are agreed in advance.

## **1.7 Equality Act 2010**

1.7.1 The council has an equality and diversity policy on its website. The policy statement reads:

Canterbury City Council recognises that the diversity of our communities is a huge asset that should be valued and seen as one of the district's great strengths.

As one of the largest employers in the Canterbury district and one of the main providers of local services, the council is committed to providing equality of opportunity and tackling discrimination, harassment and disadvantage. We are also committed to achieving the highest standards in service delivery, decision-making and employment practice. Equality of opportunity for all sections of the community and our workforce is an integral part of this commitment.

Canterbury City Council will not tolerate less favourable treatment of anyone on the grounds of their gender, age, race, colour, nationality, ethnic or national origin, disability, marital or civil partnership status, pregnancy or maternity status, sexual orientation, gender reassignment status, responsibility for dependents, religious or other beliefs, socio-economic status, or any other reason which cannot be shown to be justified.

1.7.2 The Equality Act 2010 has made provision for the assistance of taxi and private hire vehicle passengers in wheelchairs and to those who have guide dogs and other assistance dogs. The sections relating to wheelchair users (sections 165 and 167) came into force on 06 April 2017 and the provisions relating to assistance dogs (sections 168 – 173) came into force in October 2010. In accordance with sections 168 – 173 taxi and private hire vehicle drivers are under a duty to carry guide, hearing and assistance dogs without additional charge. Drivers must convey a disabled passenger's dog and allow it to remain with the passenger.

Drivers in the Canterbury area should comply with the guidance given at Chapter 9 of this policy when dealing with passengers who may have disabilities or difficulties with mobility.

1.7.3 Disability Discrimination Act 1995 and the Equality Act 2010 provisions relating to wheelchair accessible taxis and phv's – see section 10 of this policy.

1.7.4 The council will review the policy after three years from the date of its adoption or whenever the licensing authority deems it appropriate to do so, eg implementation of new legislation.

1.7.5 The council will

- review on the need to alter rank provision
- review fare levels
- review accessibility
- review existing quantity restrictions, or whether there is a need for a quantity restriction in respect of taxi vehicles after three years from the date of the adoption of this policy if no specific request is made.

1.7.6 The licensing authority will consider rank design to ensure compliance with the Equality Act 2010.

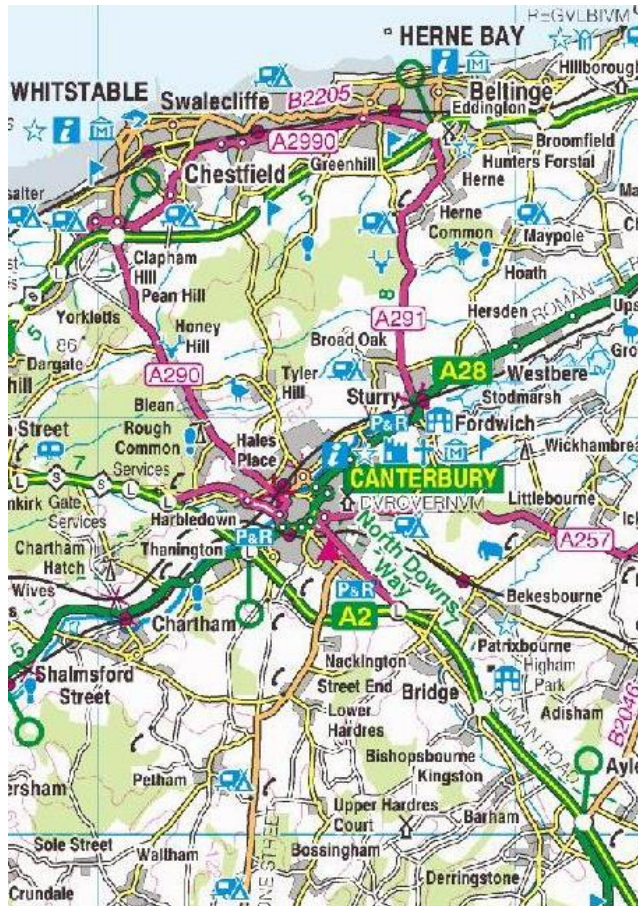
- 1.7.7 Licensing conditions will provide information about the licensing authority and local operators in alternative formats, as well as information about the types of vehicle available in the area.
- 1.7.8 The licensing authority would propose that taxi vehicle numbers are not restricted as a result of the Deregulation Act 2015, namely the ability for cross-border working.

## **2.0 Canterbury City Council district**

- 2.1 The council is situated in the County of Kent, which contains 12 district councils and one unitary authority.

The council area has a population of 158,000 (Office of National Statistics 2014) making it one of the largest in the county. In terms of area it is also one of the largest, covering 31,056 hectares. The council area is rural with a central city and two coastal towns. There are also a number of larger villages and other smaller rural settlements. The area is a major tourist attraction, a world heritage site and has four universities in the City of Canterbury. The three urban areas and the rural villages and settlements are shown on the map here.

### **Map of Canterbury District**



2.2.1 Taxi and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is not available, or outside normal working hours. Taxi and private hire vehicles play an integral part in the dispersal of customers and staff of the night-time economy.

The council looks for well-run and responsible businesses that display sensitivity to the wishes and needs to all members of the community.

The council will not issue, re-issue or allow licences to be given to unsuitable people taking into account their driving record, driving experience, criminal record, sobriety, mental and physical fitness, honesty and previous behaviour.

The compellable distance for a passenger to be taken is seven miles beyond the boundary of the licensing area.

There is no power to transfer a taxi vehicle licence by a vehicle licence holder at a premium as there is no current quantity restriction in existence.

### **3.0 Becoming a taxi / phv driver**

An applicant must fulfil each requirement of the application process in the following order before moving onto the next stage.

Note: Private hire drivers will not have to complete any requirement if it is not included in the national standards set by the Secretary of State (if and when implemented).

#### **Requirement 1**

All operators and drivers must show that they are a 'fit and proper person / safe and suitable' before being granted a licence.

If the council is not satisfied that an applicant is a 'fit and proper person / safe and suitable' for any reason, it will not grant a licence, and will explain to the applicant in writing what the reasons are for that decision together with notification of the applicant's right of appeal.

Note: Applicants may wish to consult with the council if they have any doubts whether their application might be unsuccessful because of a criminal record, serious health issue or other matter.

### **3.1 Types of driver licence**

There are two types of licence / badge, taxi and phv:

- Taxi – a taxi (hackney carriage) driver may be ‘hailed’ by a passenger, park on a taxi rank waiting for passengers or be booked by a passenger.

Note: The terms taxi and hackney carriage have the same meaning. In this policy the word “taxi” will be used. The term hackney is a reference to the type of horse used to pull the original horse drawn carriages.

- In this policy a private hire vehicle is also referred to as a phv.

Applicants may apply for a ‘dual licence’ that allows a driver to drive both types of vehicle (see paragraph 1.5.3).

- 3.1.1 All drivers’ licences can be granted for a period of up to three years (Section 10 Deregulation Act 2015) from the date the council decides that a disclosure and barring report is satisfactory. This is the disclosure and barring service date (DBS date). An applicant can choose a licence period of one, two or three years and pay the appropriate fee.

### **3.2 Requirement 2**

#### **Driving licence**

All applicants must have been the holder of a full UK or European driving licence for a minimum period of 24 months. If the applicant fails to meet this requirement, the application will be rejected.

Tick here if you meet this requirement

Applicants must hold a valid full UK driving licence before they apply to renew a licence.

### **3.3 Requirement 3**

#### **Driver & Vehicle Licensing Agency disclosure**

The grant of a licence is subject to a check being made with the DVLA in respect of any relevant convictions. The check is carried out annually or sooner if the council believes that there is reason to do so. Each applicant must complete a mandate to the DVLA to enable the check to be made or give consent for officers to make appropriate checks via gov.uk

Tick here if you meet this requirement

### **3.4 Requirement 4**

#### **Employment**

Before any application to become a taxi / private hire vehicle driver is submitted to the council, the applicant must have the offer of a contract to work as a taxi or private hire driver in the Canterbury administrative district. The application form must be signed by the owner / director of the firm offering the contract.

No application will be processed until this has been done.

Tick here if you meet this requirement

### **3.5 Requirement 5**

#### **Initial application**

Application forms can be submitted via or downloaded from the council's website, or collected from the council's offices.

e-mail: [business.support@canterbury.gov.uk](mailto:business.support@canterbury.gov.uk)

Applicants must submit their completed application in person to the council offices at Military Road, Canterbury.

The taxi help desk is open on:

Monday	10:00 to 12:00
Wednesday	13:00 to 15:00
Friday	10:00 to 12:00.

A member of staff will check whether the application form is correct.

If the application form is incomplete, the application will not be accepted.

- 3.5.1 An applicant must produce documents to prove their identity and home address(es) over the preceding five years. One of the documents must contain a photograph.

The following documents are acceptable:

- current passport
- current driving licence
- birth or marriage certificate
- a recent utility bill or council tax bill with the applicant's current address
- the applicant's national insurance number

**PLUS**

- utility bill
- bank card / statement
- P45 or P60

**PLUS**

- two passport size photographs

Tick here if you have the necessary documentation for the five year period

- 3.5.2 The council may refuse to accept a driver's licence application when the applicant has not met all the conditions set out at 3.5.1.

### 3.6 Requirement 6

#### English assessment

If the application has been correctly completed, an officer will assess whether the applicant has a reasonably adequate standard of English to be a taxi or private hire driver.

- 3.6.1 Outcome of English assessment:

If the applicant wishes to challenge the assessment, another officer from the council will assess the applicant's ability to speak English; this will be conducted during the conversation when the application is submitted. If the officer is not satisfied the applicant must undertake a council approved test.

If an applicant wishes to use another course provider, the applicant must submit the course provider's prospectus for the council to assess whether the proposed course meets the council's requirements.

Any fee for participation in an approved English course is paid to the course provider.

### **3.7 Requirement 7**

#### **Fee payment**

Once the council is satisfied that the applicant's standard of English is satisfactory, the applicant must pay the Stage 1 application fee in full to proceed. The Stage 1 fee covers the cost of the administration process of the application

Tick here if you meet this requirement and have paid the fee

The fee is non-refundable should the application fail at any stage of the application process. The Stage 2 fee must be paid before a successful applicant is issued with a licence. It is a condition of the licence that it will not be issued until the Stage 2 fee has been paid.

### **3.8 Requirement 8**

#### **Vehicles purchased to use as owner / driver taxi or private hire vehicle**

A driver may use their own vehicle as a taxi or private hire vehicle if it is:

- no older than two years with any mileage from the date of first registration, or,
- older vehicles will be considered provided the vehicle passes an inspection, conducted by a BSU officer / enforcement officer / licensing officer or senior officer with delegated authority (SODA) which assess, overall condition, mileage, service record, accident damage history, are Euro 6 (diesel / petrol) or Euro 4 (petrol-hybrid) etc

when it is licensed for the first time as a taxi / private hire vehicle.

The applicant confirms that he / she understands the conditions above

### **3.9 Requirement 9**

#### **Disclosure and barring service (DBS) check**

An officer must complete the form for an enhanced DBS check for an applicant at the same time that his / her application form is checked.

The DBS fee is included in the initial application fee and is paid to the bureau by the council unless the applicant joins the DBS electronic scheme of their own accord. If the applicant has his / her own DBS membership the application fee will be reduced to reflect this. If a licence is granted, the licence must join the electronic DBS checking scheme.

Applicants must normally complete the application process within a period of 12 months from the date the council receives a satisfactory DBS check.

This period may be extended in exceptional circumstances; it is at the discretion of the SODA to decide what are exceptional circumstances.

If the applicant is an EU or Non-EU national who has arrived in the United Kingdom within the last five years, the applicant will need to obtain and produce to the officer a disclosure notice equivalent to the DBS check from any country where they were resident during the previous five years. If the UK leaves the EU, the requirement will apply to all non-UK citizens.

#### **Notes:**

1. No application will proceed further until the DBS or equivalent checks have been completed.
2. The council has no control as to how long the checks will take as they are conducted by an independent government agency.
3. All non-EU applicants for a taxi and / or private hire driver's licence will have their details passed to the UK Border Agency to ensure they are entitled to reside and / or work in the United Kingdom. If the UK leaves the EU, the requirement will apply to all non-UK citizens.
4. If an officer has any doubt as to the validity, completeness or accuracy of the document, then an applicant may not proceed to the next step of the process. The burden to establish validity lies with the applicant.

Tick here if you have received your DBS check

Please only tick box A or B

Once the council has received a DBS check or equivalent, which reveals no information that may cause concern, the applicant may proceed to Requirement 10

A

or

Where the DBS check has revealed information that means the application must be referred to the Senior Officer with Delegated Authority (SODA) or Licensing Sub-Committee to consider whether the applicant is a 'fit and proper person / safe and suitable' before being issued with a licence, the application may not proceed until a decision has been made. Hearings are held once per month, usually on the third Wednesday of the month

B

### **3.10 Requirement 10**

#### **The knowledge test**

##### **3.10.1 Current test**

All applicants must pass the appropriate knowledge test. The test is divided into modules. The pass mark for each module is 80%. If an applicant fails any module, the whole test must be retaken.

Applicants may take the test up to four times during the 12 month period from the date that the council receives a completed satisfactory DBS check or the applicant is given SODA / committee approval to proceed where the DBS check has raised concerns (the DBS date). A fee is normally payable for each re-sit.

Applicants have one hour to answer the knowledge test questions. The period for the test may be extended where appropriate, eg on medical grounds at the discretion of the officer conducting the test.

##### **3.10.2 The current test includes questions on the following topics:**

- 1 the taxi and private hire policy
- 2 routes in Canterbury, Herne Bay and Whitstable



3 the Highway Code.

### 3.10.3 The new test

The council will introduce a new knowledge test on 01 January 2021. Applicants must normally complete the new test within 12 months from the DBS date. The test will be modular. Applicants will take all modules together.

The taxi / dual licence test will last a maximum of 90 minutes.

The PHV licence test will last a maximum of 60 minutes.

The applicant must normally pay the test fee again before he / she retakes a test. If an applicant fails to complete the test within the 12 month period then he / she must normally make a fresh application unless there are exceptional circumstances.

If a person wishes to extend the period they must submit in writing reasons as to why it is exceptional, and the licensing officer will consider each application on its merits and will decide if any extension should be given and for how long.

The new test modules will be:

#### Module 1

Highway Code – pass mark 90%

#### Module 2

##### Routes

- a) Canterbury – pass mark 90%
- b) Herne Bay – pass mark 90%
- c) Whitstable – pass mark 90%

#### Module 3

Taxi policy, conditions, bye laws, legislation, enforcement, smoking and health & safety  
pass mark 90%.

Disability access and vehicle maintenance – pass mark 90%.

The Secretary of State will set the standard of the disability equality training undertaken by taxi and private hire drivers. If a national test is introduced, the applicant will be required to complete the national test and pay any fee directly to the course provider.

Tick here when you have obtained your disability awareness certificate

### 3.10.4 Transitional provisions

All new applicants must take the new test modules if those modules have been approved and adopted by the council before their application date.

Current test – applicants who have submitted an application up to, and including the date of approval and adoption of the new test modules will be able to continue with the current test for a period of 12 months from the date of their application

Tick here when you have passed the relevant knowledge test

### **3.11 Requirement 11**

#### **Driving standards test**

Applicants must pass the Driving Test for Hackney Carriage / Private Hire drivers. Applicants must pay the fee for this course and assessment to the approved tester. The applicant must submit the original pass certificate to the council for inspection.

Applicants may take the test any time after the start of requirement 10.

Tick here when you have passed the DSA Test

### **3.12 Requirement 12**

#### **Medical**

Applicants must undergo a medical examination at their own expense to certify that they are medically fit to work as a taxi / private hire driver.

Any fee is payable to the doctor concerned.

Tick here when you have obtained your medical certificate

### **3.13 Requirement 13 – Child Sexual Exploitation and Safeguarding Training**

All applicants will be required to attend an approved training session before a badge is issued. A fee will be payable to the council if the course is provided by the local authority. If the course is provided by an approved external provider, any fee must be paid directly to the course provider.

Tick here when you have obtained your safeguarding certificate

### **3.14 Requirement 14 - Issue of log book and badges**

Once an applicant has satisfied all 13 requirements, the council will issue the applicant with a log book, two driver badges, a lanyard and a dashboard licence holder.

The Stage 2 part of the fee must be paid on grant of the licence if it has not already been paid.

The logbook is an important record. Drivers must keep the logbook available for inspection by council officers when the applicant is driving a taxi / private hire or visiting the council offices.

The driver must wear and display a driver's badge whenever he / she is working as a taxi / private hire vehicle.

The driver must display the second badge on the dashboard of the taxi / private hire vehicle whenever he / she is working as a taxi / private hire vehicle.

Tick here when you have paid the Stage 2 fee and collected your badges and log book   
It is a condition of the licence that the badge will not be issued until the Stage 2 fee has been paid.

### **3.15 Appeal process**

If an applicant is aggrieved by an application decision, they have the right of appeal, initially to a Senior Officer with Delegated Authority (SODA) in consultation with the Licensing Chairman.

Any appeal must be made in writing.

If the application is refused on appeal the council will send the applicant a decision letter setting out the reasons for the decision and appeal rights.

Any appeal to a council SODA does not affect the applicant's statutory right to appeal to the magistrates' court. The appeal fee to magistrates' court is payable directly to the Magistrates' Court at The Law Courts, Castle Hill Avenue, Folkestone, Kent CT20 2DH.

## **4.0 Renewal applications**

**4.1** A driver's first licence expires a maximum of three years from the date of issue. Subsequent licences expire 12 months, two or three years from the licence renewal date.

Operator's licences last one to five years from the date of the licence, on both grant and renewal.

A driver / operator must make a renewal application at least one month before the current licence expires. All renewal dates are contained in the log book.

The council does not issue renewal reminders. Taxi / phv drivers and operators are responsible for keeping their paperwork up to date in order to keep their businesses operating.

Failure to renew a licence, a DBS check, medical certificate or DVLA disclosure means that a driver or operator is not entitled to drive by this policy until valid documentation has been produced to an officer. Driving otherwise than in accordance with the conditions of the licence and policy may result in a licence being suspended or revoked.

**4.2** Applicants must submit their completed application in person to the council offices at Military Road, Canterbury.

The taxi help desk is open on:

Monday	10:00 to 12:00
Wednesday	13:00 to 15:00
Friday	10:00 to 12:00.

e-mail: [business.support@canterbury.gov.uk](mailto:business.support@canterbury.gov.uk)

An officer will check whether the application form is correct.

**4.3** Applicants must collect all badges and plates from the taxi help desk at the council offices in person and must bring their log book with them when they do. New expiry dates will then be entered into the log book.

#### **4.4 Drivers**

- A **DBS** check is valid for a period of six months. Drivers should apply at least three months before its expiry date unless they are paying the annual fee to the DBS for the on-line facility; drivers are required to use the DBS on-line facility as (a) it is cheaper and (b) avoids any delays in the paper system. Future renewal dates will be dated for six months from the expiry date of the existing DBS check. A six monthly period is required as it is a necessary public protection measure, particularly in respect of child sexual exploitation.
- A **medical certificate** is valid for a period of three years up to the age of 70 years. Once a driver is 70, he / she needs a new medical certificate each year. A medical certificate should be renewed at least 14 days before its expiry date.
- **Driver & Vehicle Licensing Agency Disclosure** - the renewal of a licence is subject to a check being made with the DVLA in respect of any relevant convictions. The check is carried out annually or sooner if the council thinks it necessary.
- **Drivers must declare every six months** that their situation has not changed in any way which would affect their entitlement to a licence. Any matter disclosed will be referred to the SODA for consideration and could result in immediate suspension or revocation if public safety is compromised.
- **Disability equality training** The Secretary of State will set the standard of the disability equality training undertaken by taxi and private hire drivers.

If a national test is introduced, all existing drivers will be required to complete the national test and pay any fee directly to the course provider. If the timetable is not set by the Secretary of State, drivers will have a maximum of 12 months from the date of implementation to complete the training. Failure to comply with this requirement may result in enforcement action.

Tick here when you have obtained your disability awareness certificate

- **Child Sexual Exploitation and Safeguarding Training** All existing drivers will be required to pass an approved training session. A fee may be payable to the council if the course is provided by the local authority. If the course is provided by an approved external provider, any fee must be paid directly to the course provider. Failure to comply with this requirement may result in enforcement action.

Tick here when you have obtained your safeguarding certificate

#### **4.5 WARNING!**

If any of these badges, certificates or checks has expired, the driver will not be able to operate as a taxi or phv driver until the relevant documentation has been submitted. If a driver operates otherwise than in accordance with the policy and conditions, the licence may be suspended or revoked.

#### **4.6 Operators**

- A **DBS** check is valid for a period of 12 months. Operators should apply at least three months before its expiry date unless they are paying the annual fee to the DBS for the on-line facility; operators are required to use the DBS on-line facility as (a) it is cheaper

and (b) avoids any delays in the paper system. Future renewal dates will be dated for 12 months from the expiry date of the existing DBS check.

- An **operator's licence** is granted for a period of one to five years. The fee for an operator's licence is (a) pro-rata for the period applied for and (b) based on the number of cars they operate. An operator must also fulfil the test to be a 'fit and proper person / safe and suitable' to hold a licence. They should therefore hold a driver's badge or satisfy the requirements for a driver as set out in part three above.
- Operators must declare every six months that their situation has not changed in any way which would affect their entitlement to a licence. Any matter disclosed will be referred to the SODA for consideration.
- Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.
- Operators, as conditions of their licence must
  - keep a register of all staff that will take bookings or dispatch vehicles
  - inspect a basic DBS check for all staff on their for taking bookings or dispatching vehicle
  - provide the licensing authority with their policy on employing ex-offenders
  - record the following information for each booking:
    - the name of the passenger;
    - the time of the request;
    - the pick-up point;
    - the destination;
    - the name of the driver;
    - the driver's licence number;
    - the vehicle registration number of the vehicle;
    - the name of any individual that responded to the booking request;
    - the name of any individual that dispatched the vehicle.

## 4.7 Vehicles

4.7.1 A vehicle plate is granted for a period of 12 months and the application for renewal must be submitted at least one month before the expiry date. Valid insurance and test certificates must be produced to the council before a plate is issued.

The council will not accept applications for renewal after the expiry date, but the application will be treated as a fresh application.

If a renewal is not completed before the due date the vehicle cannot be used as a licensed taxi / private hire vehicle until it is licensed again.

Vehicle proprietors will be required to have an annual basic DBS check if they are not subject to the driver bi-annual enhanced DBS check.

4.7.2 If a vehicle licence plate has at least six months left to run when a vehicle is sold or transferred, 50% of the fee will be credited to the original driver's / owner's account.

4.7.3 Wedding cars and funeral cars are exempt from the requirement to be licensed.

## 4.8 Replacement badge and plates

Licence holders must pay a fee for replacing lost or stolen badges and plates.

## 5.0 Grant / renewal, suspension, revocation or refusal of taxi or private hire driver's licence

### 5.1 Spent Convictions

1. All applicants for a taxi and / or private hire driver's licence **must declare any convictions that have been recorded against them in both the UK and elsewhere**, including any spent convictions, or cautions, reprimands, community resolutions, other disposals etc.<sup>1</sup>
  2. **The Council will always consider the protection of the public as its paramount consideration before granting / renewing a licence.** A person with a current conviction or unspent conviction for a serious criminal offence need not be permanently barred from obtaining a licence. However that person will be expected to remain free of conviction for the periods detailed in the Institute Of Licensing's Guidance *Safe And Suitable?*, (subject to the circumstances of each individual case), before the council will consider an application. The council will consider each case on its own individual merits. The council will calculate the period from the completion of any sentence.
- 5.2 The disclosure of a criminal record or other information will not automatically prevent the grant of a licence.

In making a decision, the council will take into account the following when applying the *Safe and Suitable* Guidance

- the nature of the offence(s) / behaviour
- how long ago the offence(s) was / were committed / behaviour was committed
- what the age of the applicant was when the offence(s) was / were committed / behaviour was committed
- any other factors that might be relevant eg sentence, status of any victim, aggravating features, mitigation etc.

The council will give the applicant a written copy of the decision with reasons promptly together with details of the applicant's right of appeal.

Spent convictions will become relevant where they show a course of conduct on behalf of the applicant. For example, a number of convictions for violence, even where spent, may indicate a real risk to passengers which may not arise from an isolated offence committed a number of years ago.

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<sup>1</sup> Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, Schedule 1, Part 3 as amended

## 6.0 Vehicles

### 6.1.1 General

#### 6.1.1 A taxi / private hire vehicle

- The entire fleet will be required to be low emission, (LEV) either all electric, electric/fuel hybrid or Euro 6 diesel and Euro 6 petrol compliant by 1 August, 2022. Older vehicles will have over 3 times and with some as much as 6 times the permitted emissions limit of Euro 6 diesel and petrol.
- From 1 August, 2020 battery electric vehicles (BEV) will be licensed for 10 years and extended range electric vehicles (E-REV), plug in hybrid vehicles (PHEV), fuel cell electric vehicles (FCEV-hydrogen vehicles) will be licensed for 7 years with potential annual renewal upon inspection thereafter to a maximum of 10 years.
- From 1 August, 2020 all Euro 6 diesel and Euro 6 petrol vehicles will be licensed for a maximum period not to exceed 1 August, 2025. Any Euro 6 diesel or Euro 6 petrol driven TPH licensed before 1 August, 2020 will also cease to be licensed on 1 August, 2025.
- All TPH vehicles will be required to be ultra low emission (ULEV), by 1st April 2025 which means either: battery electric vehicle (BEV), extended range electric vehicle (E-REV) plug in hybrid electric vehicle (PHEV) or fuel cell electric vehicle (FCEV-hydrogen vehicle)
- The entire fleet should be all electric by 1 August, 2030.
- A sliding scale of fees so that the cleanest vehicles pay the lowest licence fees.
- Reserved fast charging points on the front of taxi ranks for electric / hybrid vehicles.
- More flexible advertising opportunities for electric black cabs to offset the purchase costs.
- Vehicles fitted with stop/start technology, must not turn that facility off at any time when the vehicle is operating as a taxi or private hire vehicle.
- Drivers waiting on a taxi rank must not operate the vehicle's engine for more than 60 seconds whilst stationary.
- Vehicles must be no older than two years with any mileage from the date of first registration when it is licensed for the first time as a taxi / private hire vehicle.

All references in this policy to 'first registration' relate to registration of the vehicle with the DVLA.

Owners of brand new vehicles will not be required to provide a MOT certificate until the first renewal of vehicle's licence, unless on inspection an officer requires one, eg after inspecting accident damage.

On 22 June 2022 the Council, at a Cabinet meeting resolved to amend 6.1.1 of the Policy as follows:

1. Existing Euro 5 petrol or diesel vehicles would be licensed until 1 August 2024 unless

wheelchair accessible subject to the additional recommendations made in part 10.

2. No new applications for Euro 5 vehicles would be granted from 01 August 2022 or the date of any amendment to the policy by Cabinet, whichever date was the earliest.

3. Euro 6 petrol diesel vehicles Licensed until 1 August 2030 unless wheelchair accessible

4. That it was to be determined if the entire fleet should be all electric and this would be considered as part of the next full policy review in 2026

5. That all battery electric vehicles would be licensed for seven years and then up to 10 years depending on the annual inspection.

6. That all new vehicle applications must be for at least a plug-in hybrid vehicle (PHEV) from 01 August 2026 to be licensed for up to seven years, subject to the additional recommendations made in part 10.

7. That all new vehicle applications must be for battery electric vehicles (BEV) from 01 April 2030 to be licensed for up to seven years but extended to 10 years subject to annual inspection.

8. That Cabinet kept the policy under review and considered whether further changes were necessary to respond to developments in technology and infrastructure.

9. That the Taxi and Private Hire Policy would be subject to its next full review in 2026.

10. Grandfather rights would apply to any vehicle that was licensed under the 2021 policy subject to them passing tests required.

6.1.2 The council will only accept a vehicle application form if the owner / licensed driver has insurance, proof of sale / loan agreement, V5 logbook and any other documents required, in the same name.

6.1.4 A saloon / estate vehicle or MPV based on a saloon vehicle, including Ford C Max, Renault Scenic, Citroen Picasso, VW Touran, Vauxhall Meriva and other similar vehicles, will normally be licensed for a maximum period of seven years from the date of first registration.



An application may be submitted on an annual basis to extend the seven year period provided the vehicle passes an inspection, conducted by a BSU officer / enforcement officer / licensing officer or SODA to assess overall condition, mileage, service record, accident damage history etc.

A saloon / estate or MPV based on a saloon will not be licensed for more than four passengers if seats for additional passengers are directly in the boot against the rear door for health and safety reasons, ie positioning of doors, exit doors and size of seats.

Vehicles will be subject to an annual check by council officers to ensure that exterior and interior standards are maintained, ie no dents, damage, rust, decolourisation, dirty / torn seats, tatty interior etc. Business support and licensing enforcement officers have delegated authority to conduct annual inspections with a final discretion exercised by the SODA.

Vehicles should be of a minimum size of a large family saloon, If an applicant is unsure as to whether a particular car is suitable, he / she should obtain written council approval before any purchase is made.

#### **6.1.5 Specialist vehicles**

The licensing officer / SODA have delegated authority to grant a taxi or private hire vehicle licence for specialist vehicles, eg classic / vintage cars, camper vans, horse and carriage etc where businesses are required to have a licence by legislation but they are not a typical taxi or phv business.

#### **6.1.6 Tinted windows**

No licensed vehicle shall normally have privacy glass unless the tinted glass is included in the vehicle's standard manufacturing specification or the vehicle is not used for general public hire but is used for airport collection services or for private business hire. See also Road Vehicle (Construction and Use) Regulations 1986 (as amended).

#### **6.1.7 Luggage**

All taxis and private hire vehicles must have adequate and secure storage for carrying luggage for the number of passengers carried.

#### **6.1.8 Vehicles – size, type, use etc**

Taxi and private hire licensing covers vehicles regardless of their form or construction, including non-motorised vehicles.

For the purposes of taxi, private and public service vehicle legislation, all passenger seats and spaces capable of carrying a standing passenger should be included when assessing vehicle carrying capacity.

Taxi and private hire licensing to include larger vehicles in two circumstances:

- (a) on a mandatory basis, in respect of stretch limousines and novelty vehicles: and
- (b) on an optional basis, where providers want to use larger vehicles in a taxi or private hire business.

#### **6.1.9 All taxis and ph vehicles must have two MOT tests each year at six monthly intervals (brand new vehicles are excluded for the first 12 months since first registration) and produce the service book at each service.**

#### **6.1.10 All the vehicles registration number plates must comply with DVLA requirements and**

regulations.

## **6.2 Damage to licensed vehicles**

Any damage to a licensed vehicle must be notified to a council enforcement officer as soon as possible and in any case within 48 hours. Unless the vehicle is so severely damaged that it will never again be serviceable as a licensed vehicle, the council will make an appointment for the driver to produce the vehicle for inspection.

If the council considers that the damage to the vehicle is so serious that the vehicle is not fit to be used as a taxi or private hire vehicle they will suspend the vehicle licence until the damage has been repaired to their satisfaction.

In some cases the council may require its inspection<sup>2</sup> body to certify that the vehicle is fit to return to service as a taxi or private hire vehicle before reinstating the vehicle licence.

## **6.3 Conditions relating to taxis, MPV taxis and London taxi vehicles**

6.3.1 All London taxi and purpose built MPVs such as a Mercedes VITO, Peugeot E7 or VW Transporter etc will normally be licensed for a maximum period of ten years from the date of first registration. It is acknowledged that the purpose built vehicles are designed and manufactured to operate well beyond 15 years and this will be taken into account at the annual inspection on renewal.

An application may be submitted on an annual basis to extend the period provided the vehicle passes an inspection, conducted by a BSU officer / enforcement officer / licensing officer or SODA to assess overall condition, mileage, service record, accident damage history etc.

Saloon based MPVs will be treated as saloon vehicles.

6.3.2 Council officers will decide whether an MPV is a saloon based vehicle or not.

6.3.3 The standard colours for taxis are black and silver as defined in a standard dictionary.

Other dark colours for taxis are permitted with prior authority of the licensing regime. A decision as to whether approval will be given will be made within 24 hours on a working day if a photograph can be viewed by an officer.

Applicants must complete a pre-purchase form to obtain approval from a business support officer, before purchase, that the vehicle is suitable in respect age, mileage and condition and includes a photograph. The vehicle can still be declined at inspection if the vehicle does not match the details in pre-purchase form or the history of the vehicle means that it is unsuitable, eg it has previously been 'written off'.

A BSU officer / enforcement officer / licensing officer or SODA is delegated to give approval.

Transitional provisions – existing vehicles with a colour other than black and silver may continue to be licensed until expiration of the maximum permitted period for the vehicle.

6.3.4 Once licensed, a taxi is always a licensed vehicle during the period for which the licence is in force regardless of the use to which it is being put and must always be driven by a licensed driver, ie if a driver fails to renew their driver's licence or their licence is suspended

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<sup>2</sup> Serco plc at the Council's depot Wincheap, Canterbury

or revoked they cannot drive any taxi or phv under any circumstances, including using the vehicle for private, social domestic or pleasure.

All taxis must display continuous black and white chequered squares along the entire length of both sides of the vehicle. The chequered squares shall each measure 25mm x 25mm; three rows of chequers totalling a band of 75 mm wide. The only class of licensed taxi exempt from this requirement is a London cab. Magnetic strips or transfer signage must be used.

Licensed vehicles must at all times be plated. In the area of Canterbury City Council plated means the internal use of a small white licensing plate, the internal use of a sticker plate and the external use of a hard plastic plate.

Placement and use of vehicle licence plates on taxis

- A small white plastic licensing plate with the vehicle licence number on it will be displayed inside the vehicle, which must be clearly visible to all persons in the vehicle. The plate must be displayed on the dashboard or, in the case of a vehicle with a partition between the driver and passenger(s), on the partition
- A small sticker plate will also be displayed on the (inside) front nearside of the windscreen
- A small sticker plate will also be displayed on the rear window
- A large plastic vehicle plate will be displayed externally on the rear of the vehicle
- Plates must not be obscured from view or be defaced
- All plastic plates and sticker plates will be provided by the council and remain the property of the council at all times

All plates, signage, chequers etc must be displayed in accordance with this policy.

If the licensed vehicle is being used purely for private, domestic, pleasure and social use and the vehicle has insurance covering that use, providing it is being driven by a licensed driver, the council will allow that roof signage and chequered stripes can be temporarily removed while it is being driven for this purpose.

If the vehicle is being used other than for domestic, pleasure and social use without the appropriate signage, plates etc the licensing regime will consider any breach or non-compliance as a serious matter and this will be dealt with accordingly.

6.3.5 Licensed taxis must display a roof sign capable of being illuminated bearing the word TAXI facing to the front of the vehicle. The sign to the rear may state TAXI or the telephone number of the firm in the same size letters or numbers. Such signs must comply with the Road Vehicles Lighting Regulations 1989. The standard industry specifications for taxi roof signs is 355mm (14 inches) in length and 115mm (4.5 inches) in height with lettering of 75mm (3 inches).

6.3.6 London Cabs must comply with the requirements of Transport for London (TFL) <http://tfl.gov.uk/>

#### **6.4 Vehicle status from taxi to a private hire vehicle**

There are no restrictions to convert a taxi to a phv providing the vehicle

- has a current licence
- it complies with all other terms and conditions, eg age, condition etc.

A London cab cannot be licensed as a private hire vehicle.

#### **6.5 Advertising on taxis**

The only lettering permitted on a licensed taxi vehicle without prior written authority of the Head of Safer Neighbourhoods is the proprietor's name or the name of his / her business above a telephone number on the front door panels of the vehicle. The maximum size of each letter or number is 150mm x 75mm; fluorescent colours are not permitted.

Written applications for advertising otherwise than in accordance with the policy, ie other signs, letters, motifs, emblems, marks, figures, notices, advertisements or devices will be considered by the Head of Safer Neighbourhoods.

No lettering or advertisement is permitted on any window or glass panel of a vehicle.

Advertising on glass will not be permitted under any circumstances although purely warning notices such as 'no smoking', 'no food and drink' cctv etc may be displayed on the rear glass panels.

The council will charge an administration fee for considering whether to grant approval of any non-standard lettering or advertisement on a taxi.

Only providers of licensed taxis should be allowed to describe themselves using the word "taxi" on vehicles or in advertising materials.

All existing signage must be compliant with the policy within three months from the date of adoption of this policy unless a written application has been granted by the SODA authorising a specific design.

## **6.6 Conditions relating to private hire vehicle**

- 6.6.1 All vehicles including purpose built MPVs such as a Mercedes VITO, Peugeot E7 or VW Transporter etc will normally be licensed for a maximum period of ten years from the date of first registration. It is acknowledged that the purpose built vehicles are designed and manufactured to operate well beyond 15 years and this will be taken into account at the annual inspection on renewal.

An application may be submitted on an annual basis to extend the period provided the vehicle passes an inspection, conducted by a BSU officer / enforcement officer / licensing officer or SODA to assess overall condition, mileage, service record, accident damage history etc.

Saloon based MPVs will be treated as saloon vehicles.

- 6.6.2 Council officers may decide whether an MPV is saloon based vehicle or not.

- 6.6.3 The permitted colours for phv's are red and white as defined in a standard dictionary.

Other dark colours and silver for phv's are permitted with prior authority of the licensing regime. A decision as to whether approval will be given will be made within 24 hours on a working day if a photograph can be viewed by an officer.

Applicants must complete a pre-purchase form to obtain approval from a business support officer, before purchase, that the vehicle is suitable in respect age, mileage and condition and include a photograph. The vehicle can be still be declined at inspection if the vehicle does not match the details in pre-purchase form or the history of the vehicle means that it is unsuitable, eg it has previously been 'written off'.

A BSU officer / enforcement officer / licensing officer or SODA is delegated to give approval.

Transitional provisions – existing vehicles with a colour other than red and white may continue to be licensed until expiration of the maximum permitted period for the vehicle.

- 6.6.4 Once licensed, a phv is always a phv during the period for which the licence is in force regardless of the use to which it is being and must always be driven by a licensed driver.

Placement and use of vehicle licence plates on phvs

- All phv s must display a large plastic vehicle licensing plate as issued by the council on the rear of the vehicle
- All licensed private hire vehicles will display an appropriate notice supplied or approved by the council showing the phv licence number and stating that the vehicle must be pre-booked on:
  - both rear passenger door windows or
  - both rear passenger door panels.

- Plates must not be obscured from view or be defaced
- All plastic plates and sticker plates will be provided by the council and remain the property of the council at all times
- Plastic plates and stickers must be displayed on vehicles at all times.

If the vehicle is being used without the appropriate signage the licensing regime will consider any breach or non-compliance as a serious matter and this will be dealt with accordingly.

- 6.6.5 There is no restriction to the level of tint for the glass windows in the passenger compartment. However, for the safety of passengers, tinted glass in the windscreen and front doors must be restricted to the manufacturers' standards.

## **6.7 Vehicle status from private hire vehicle to a taxi**

There are no restrictions to convert a phv into a taxi providing the vehicle

- has a current licence
- it complies with all other terms and conditions, eg age, condition etc.

## **6.8 Advertising on private hire vehicles**

The only lettering permitted on a licensed taxi vehicle without prior written authority of the Head of Safer Neighbourhoods is the proprietor's name or the name of his / her business above a telephone number on the front door panels of the vehicle. The maximum size of each letter or number is 150mm x 75mm; fluorescent colours are not permitted.

Written applications for advertising otherwise than in accordance with the policy, ie other signs, letters, motifs, emblems, marks, figures, notices, advertisements or devices will be considered by the Head of Safer Neighbourhoods.

No lettering or advertisement is permitted on any window or glass panel of a vehicle.

Advertising on glass will not be permitted under any circumstances although purely warning notices such as 'no smoking', 'no food and drink' cctv etc may be displayed on the rear glass panels.

The council will charge an administration fee for considering whether to grant approval of any non-standard lettering or advertisement on a phv.

## **6.9 Flags, stickers, notices etc on taxis and phvs**

Flags in support of a team participating in major international sporting events such as England in the World / European cup finals (this does not include qualifiers), or events of significant national celebration, eg Queen's jubilee, royal wedding etc may be flown from a licensed vehicle; the flag may up to 300mm x 450mm.

No notices, stickers relating to political parties, campaigns etc are permitted. Any other articles placed, hung etc in or on the vehicle must have approval of a council officer; such items must not compromise public safety.

#### **6.10 Transfer of ownership of a taxi or phv**

Forms must be completed and delivered to the council by the seller and the buyer within 14 days after any taxi or private hire vehicle is sold or ownership is transferred to another licensed operator or driver.

If the vehicle is not being transferred to a licensed operator or driver, all plates must be returned to council within 14 days from the sale date.

The council will revoke the vehicle licence plate automatically if this is not done.

#### **6.11 Additional conditions applying to (stretch) limousines (LPH)**

6.11.1 The number of passengers any stretch limousine is licensed to carry will be a maximum of eight. A vehicle may be licensed for a maximum of seven years.

6.11.2 The vehicle may be left or right hand drive. Operators of all stretched limousines making applications for lph vehicle licences will be required to produce proof of individual vehicle approval issued by the vehicle and operator services agency (VOSA).

6.11.3 There is no restriction to the level of tint for the glass windows in the passenger compartment. However, for the safety of passengers, tinted glass in the windscreen and front doors must be restricted to the requirements of individual vehicle approval standards in line with the current standards of VOSA.

6.11.4 Drivers of stretched limousines must receive training on how to attend to, and help, passengers with disabilities. Records of this training must be kept with the vehicle licensing log book.

6.11.5 No sales of alcohol shall be included within the vehicle's hire fee. (This includes 'hidden sales'). Any alcohol must be provided separately by the hirer.

6.11.6 Any glassware used in the vehicles shall be made either of shatterproof glass or polycarbonate.

6.11.7 The vehicle will not be hired to persons under the age of 18 years unless an adult (other than the driver of the vehicle) supervises them.

6.11.8 The council shall approve the seating arrangement, within the vehicle, which may vary in accordance with the design of the vehicle.

6.11.9 An lph will not be plated as a taxi or private hire vehicle; it will always be plated within the limousine (lph) category.

6.11.10 All limousines, save for wedding and funeral cars, shall have sufficient seat belts for the maximum licensed number of persons carried and comply with the current legislation in relation to seat belts.

#### **6.12 Motorcycle private hire vehicle conditions (mphv)**

- 6.12.1 A mphv must be suitable for the purpose of carrying a passenger and appropriate luggage.
- 6.12.2 Mphvs must meet appropriate motorcycle design and construction standards as set out in any applicable and relevant EU standard and must not be modified in any way.
- 6.12.3 All mphvs must meet current exhaust noise and emission standards.
- 6.12.4 All mphvs must be fitted with an ABS braking system.
- 6.12.5 All mphvs must have two MOT tests each year at six monthly intervals (brand new vehicles included) and produce the motorcycle service book at each service.
- 6.12.6 Mphv licensing plate must be displayed on the rear of the motorcycle. Signage must not interfere with the safety or operation of the vehicle.

A vehicle may be licensed a maximum of seven years. There is no minimum vehicle age restriction; the licensing officer will consider each vehicle on its individual merits taking into account condition, mileage and service history. An application may be submitted on an annual basis to extend the period provided the vehicle passes an inspection, conducted by a BSU officer / enforcement officer / licensing officer or SODA to assess overall condition, mileage, service record, accident damage history etc.

- 6.12.8 'Motorcycle rider', all references to 'driver' applies equally to 'rider' where appropriate.

A licensed motor cycle rider (a licensed rider) shall comply with the council's conditions for licensed private hire vehicles drivers and the additional requirements listed below.

- 6.12.9 Both the licensed rider and passenger must comply with the requirement to wear a safety helmet. The licensed rider must offer hygienic inserts for the helmet although the passenger is not obliged to use them.
- 6.12.10 Motorcycle passengers must be offered a set of protective clothing to wear although there is no legal requirement for them to wear it.
- 6.12.11 There must be a licensed rider / pillion passenger intercom system linked through the safety helmets.
- 6.12.12 Passengers under the age of 16 must have written parental consent before riding on the motorcycle. All passengers must be able to reach the foot rests and grab handles.
- 6.12.13 Licensed riders must have held a full motorcycle licence for a minimum of five years and demonstrate that they have driven motorcycles of at least 750cc engine capacity for at least 100 days per annum or for 1,000 hours per annum during that period.
- 6.12.14 Licensed riders must have passed a motorcycle riding test of the Institute of Advanced Motorist / RoSPA or equivalent, this is in addition to a full DVLA driver's licence of the correct category.
- 6.12.15 All licensed riders will have a current medical and DBS check at all times when operating a motorcycle phv.

### **6.13 Children and young persons**

- 6.13.1 If a driver carries a child under the age of 12 months the child must be in an appropriate child seat, if provided by the parent, guardian, carer, KCC, school etc, anchored by a seat

belt. If the child is carried in this way in the front seat the air bag must be turned off in accordance with the seat manufacturer's guidance.

- 6.13.2 Children between the ages of one to 14 years must be seated in the rear of the vehicle using a child seat or booster cushion, if provided by the parent, guardian, carer, KCC, school etc anchored by a seat belt, in accordance with the seat manufacturers' guidance.
- 6.13.3 If a 'passenger assistant' is employed by a driver / or operator they must have been approved by and issued with the appropriate badge by Kent County Council.
- 6.13.4 Employers and operators are required to supervise, monitor and train escorts to maintain the highest safeguarding standards. Training includes ensuring that escorts are familiar with a robust reporting protocol if the escort has any concerns. Employers and operators must have direct contact with their passenger assistant at least once per week when operating under KCC contracts for school runs, eg not required during school holidays.

## **7.0 Licensed taxi and private hire vehicle conditions**

Drivers must comply with the following conditions when driving a licensed taxi or private hire vehicle.

Only a licensed taxi driver can drive a taxi vehicle; a person who does not hold a licence or possesses a licence that has been revoked or suspended cannot drive a taxi vehicle even if the use is for personal, social, domestic or pleasure.

Only a licensed phv driver can drive a ph vehicle; a person who does not hold a licence or possesses a licence that has been revoked or suspended cannot drive a ph vehicle even if the use is for personal, social, domestic or pleasure.



These conditions apply to all vehicles including stretch limousines and motorcycles so far as practicable.

## **Payment**

- All Hackney Carriage/Private Hire drivers must have the ability to accept a card payment.
- No fee can be added to the fare for taking a card payment and no minimum spend permitted.
- Drivers must accept cash or card, no fare refused.

## **7.1 Equipment**

The licensed vehicle must carry the following equipment:

- a. A foam, gas or powder fire extinguisher fully maintained and in working order
- b. First aid kit of sufficient specification to deal with all minor roadside injuries (please note that there is no mandatory list of contents of a first aid box. For low hazard situations consult the Health and Safety Executive publication INDG 214)  
*NB* This does not require the driver to administer first aid
- c. In the case of a new vehicle that is not supplied with a spare wheel, a can of tyre repair fluid
- d. Fluorescent vests; enough for driver and all passengers
- e. Warning triangle
- f. Spare bulbs for all internal and external lighting.

Note: if an expiration date applies, the equipment must be renewed before the expiry date.

Equipment must be marked with an indelible pen with the registration number of the vehicle.

## **7.2 Loss or theft of a vehicle plate / notice**

A driver must report the loss or theft of a licence plate or notice to the police and to the council (quoting the police reference) as soon as possible or in any case within 24 hours so that a replacement can be issued. There is a fee payable for the replacement of a plate.

## **7.3 Insurance and registration of vehicle**

### **7.3.1 Individuals**

Where the registered owner of a licensed taxi or private hire vehicle is a living individual, the vehicle must be registered, licensed and insured in the name of that individual.

### **7.3.2 Company**

Where the registered owner of a licensed taxi or private hire vehicle is a company, the vehicle must be registered, licensed and insured in the name of that company.

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

Directors and partners will be required to provide an annual basic DBS check if they are not subject to the bi-annual enhanced drivers DBS check.

7.3.3 Any failure to comply with any of these licensing conditions may vitiate a vehicle insurance policy.

#### **7.4 Smoking**

A driver may not smoke a cigarette, pipe, cigar, including electronic / vapour devices etc, at any time in a taxi or private hire vehicle, irrespective of whether there is a passenger in the vehicle or not. A taxi or private hire vehicle is considered to be a place of work.

#### **7.5 Alcohol**

If an authorised officer of the council considers that it is appropriate, they can ask a driver to participate in an alcohol screening test. The driver is not obliged to comply with the request but failure to do so may result in the officer reporting any concerns to the police.

#### **7.6 Maintenance and appearance**

7.6.1 The licensed vehicle and its fittings, must at all times when it is available for hire, be:

- a. safe
- b. tidy
- c. clean
- d. in roadworthy condition

and comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including the Motor Vehicles (Construction and Use) Regulations.

7.6.2 Remoulded / re-treaded tyres may not be fitted to a taxi or phv.

#### **7.7 Insurance, MOT and vehicle excise licence**

7.7.1 A licensed vehicle must not be used as a taxi or private hire vehicle unless there is a current MOT certificate, current certificate of insurance and current vehicle excise licence in force.

Proof of a current vehicle excise licence must be produced when insurance and test certificates are produced.

#### **7.7.2 WARNING!**

If any of the above documents, certificates, licence etc to lapse, the vehicle cannot be used until a valid document is produced.

#### **7.8 Taxi and Private Hire documents and log books**

7.8.1 The up-to-date log book must be carried in the vehicle at all times; the log book includes the current edition of this policy. The log book and policy must be available to officers when drivers attend the council offices. Production of either an electronic or hard copy version of the policy is permissible.

7.8.2 The log book must be updated after each MOT test.

7.8.3 In the case of an insurance certificate, the log book must be up-dated within seven days of receipt of the appropriate document.

The log book must be updated with any relevant cover note or other relevant insurance document prior to the vehicle undergoing any MOT inspection.

A vehicle can be MOT'd at any Ministry of Transport approved testing centre.

## **7.9 Production of documents, certificates, log books etc**

A driver or operator must produce any document within seven days if requested to do so by any officer of the council. Failure to adhere to the request will result in revocation or suspension of the driver or vehicle licence until the requested document has been produced.

## **7.10 Taxi meters**

7.10.1 The fee for calibration of a taxi meter shall only be incurred when calibration is necessary, e.g. the transfer of a meter from one vehicle to another or the tamper proof sticker has been interfered with or removed. If the sticker is intact at inspection, a current calibration certificate must be produced at each annual inspection.

7.10.2 If a taxi has been hailed or engaged at a taxi rank by a passenger, a meter must be used and display the fare that may be charged. It is a matter for the driver if they will accept payment which is less than that shown on the meter, but a driver cannot ask for an amount which exceeds the sum displayed on the meter.

## **7.11 Taxi and private hire bookings**

If a passenger has booked a taxi or private hire vehicle and the driver is late or does not attend the booking without good reason, the matter will be investigated and if necessary, referred to a SODA / licensing sub-committee to consider suspension / revocation of the licence.

Good reason may include accident, illness, vehicle failure etc and the driver has done everything that a reasonable person could have done in the circumstances to arrange an alternative vehicle or driver.

Taxis picking up passengers outside their licensed area must comply with a "pre-booking" requirement (they cannot be hailed or pick a fare up from a rank). As a pre-booked fare, (a) the passenger must be provided with an estimate of the price in advance of the journey and (b) records of the fare must be kept.

Taxis are not required to keep pre-booking records for passengers picked up in their licensed area.

## **8.0 Drivers**

### **Licensed taxi and private hire driver conditions**

#### **All drivers must:**

**8.1** Drivers must behave in an orderly and professional manner at all times and be courteous to their passengers, the public, council officers and other road users.

**8.2** Be clean and tidy in appearance and dress in a manner that will not cause offence or embarrassment to passengers or other members of the public.

The driver must not wear:

- shorts – unless tailored, ie no football, sports, Hawaiian style or garish shorts
- sleeveless vests
- tracksuit tops and / or bottoms.

**8.3** All drivers must notify the council of any change of employment / contract within the taxi or private hire trade within 14 days of that change.

**8.4** A driver must wear his / her driver's badge in the approved holder in a conspicuous position at all times when working; this can either be a lapel clip, lanyard or armband.

- 8.5** Drivers will be provided with an additional badge which they must display at all times when they are driving a licensed vehicle where it may be easily seen by all passengers. It should be placed on the dashboard or, in the case of a purpose built taxi, on the bulkhead.
- 8.6** A driver must report the loss or theft of a badge to the police and to the council, quoting the police reference), as soon as possible, or in any case within 24 hours, so that a replacement can be issued. A fee is payable for the replacement of a badge.
- 8.7** A driver must notify the council in writing of any permanent or temporary change of address within seven days. A form is available from main reception or on-line.
- 8.8** If a driver is disqualified from driving by the courts for any period of time, his / her driver's licence and badge will be automatically revoked by policy and must be surrendered to the council immediately.
- 8.9** If a driver is convicted of, cautioned for or given a resolution etc, or bailed by the police or the court, or released under investigation in the UK or elsewhere:
- a) for a minor traffic offence; or
  - b) is issued with a fixed penalty notice for a minor traffic offence;
  - c) for any other criminal offence
- he / she must report it to the council within 48 hours of a conviction, caution, resolution etc, or in the case of a fixed penalty notice 14 days from date of issue, or within 48 hours of being granted bail, or with 48 hours of being released under investigation.
- 8.10** If required to do so by an authorised council officer or police officer, a driver must stop the taxi / private hire vehicle and remain with that officer until permitted to move off.
- An authorised council officer is an officer who has been given an authority in writing to deal with the enforcement / compliance of this policy
- 8.11** A driver must notify the council promptly of any illness that would prevent him / her from driving or cause his / her driving licence to be suspended or revoked by the Driver and Vehicle Licensing Authority. In these circumstances the driver's licence will be suspended until (i) the DVLA has lifted the suspension / revocation and (ii) a medical certificate is produced to the council stating that (a) the driver is fit to drive and (b) the certificate addresses the particular illness or, condition that the driver has notified to the council.
- 8.12** A driver's licence and badge remain the property of the council at all times. Drivers must return their taxi or private hire licences and badges to the council on request.
- 8.13** A driver or person responsible for a licensed vehicle must produce on request to an authorised council officer or a police officer:
- a) the taxi / private hire vehicle log book, including the latest edition of the policy
  - b) his / her driver licence / badge.
- 8.14** If any property is left in the vehicle by a passenger or it is handed to the driver, the driver must notify the nearest police station within 24 hours unless the property is claimed by the owner of that property. The driver is under a legal duty to take appropriate care of the property and to ensure that if it is returned, that person is lawfully entitled to possess the property or act as agent for the owner.
- 8.15** Drivers must not drive a taxi / private hire vehicle if they no longer hold, or have had suspended or are disqualified from holding a DVLA UK, European Economic Area or Northern Ireland driving licence.

## **8.16 Medical fitness**

Drivers must have a medical examination as set by the council when they apply for a new licence (not a renewal) and thereafter every three years until they become 70. Once a driver is 70, he / she will need to obtain an annual medical examination certificate for production to the council.

If a licensed driver appears or is reported to an authorised officer to have problems relating to alcohol consumption or the use of prescription or other drugs they will be required to attend an enhanced medical examination at a medical centre chosen by the council. Failure to attend such a medical will result in the revocation or suspension of the driver's licence.

If a driver is declared unfit to work due to a medical condition, he / she must notify the licensing authority within two days of that declaration and before they return to work as licensed driver, must produce a medical certificate that they are fit to work.

## **8.17 Eyesight**

Drivers must meet the eyesight requirements specified by the Driving Standards Agency driving test. This can be done by wearing contact lenses or spectacles.

Failure to do so will result in the revocation or suspension of a licence until the driver's eyesight has been corrected to pass the test.

## **8.18 Smoking and alcohol**

Drivers and passengers are not allowed to smoke cigarettes, cigars, pipe etc or electronic smoking devices, vapour etc or drink alcohol during the course of any journey.

## **9.0 Transporting disabled passengers**

**9.1** Each passenger with a disability has different needs. Many disabled people have experienced well-intentioned but clumsy assistance that has caused them discomfort and pain.

Operators and drivers must ask the customer or their carer what assistance they need. The driver should always make sure that passengers are familiar with any access and safety equipment in the vehicle.

**9.1.1** The driver should ask the customer if they are comfortably seated before starting the journey.

**9.1.2** If the passenger is in a wheelchair, the driver should always:

- pull up as close as possible to the kerb
- use the ramps
- if necessary, tip up the back seat to give more space to manoeuvre the wheelchair
- insist that the passenger travels in the correct position as recommended by the vehicle manufacturer. In the case of a London type cab this position will be facing the rear of the vehicle. The incorrect travelling position is unsafe
- make sure that the brakes of the wheelchair are on
- be polite and ask before touching or moving a passenger
- secure the wheelchair and ask if the passenger needs help to fasten the seat belt provided
- if it has been raised, lower the back seat if the passenger would prefer it
- avoid sudden braking or acceleration
- bring the wheelchair out of the vehicle backwards down the ramp and ask if the passenger would like the brakes on once they have been unloaded

- leave the passenger in a safe and convenient place, which enables them to move away independently.

## **9.2 Manoeuvring a wheelchair**

9.2.1 When taking a person in a wheelchair up a kerb a driver should place their foot on one of the tipping levers (which project from the back of the wheelchair at ankle height) and pull the wheelchair onto its back wheels so that its front wheels are level with the kerb and follow with the back.

9.2.2 When taking a person in a wheelchair down a kerb, again the driver should place their foot on the tipping lever and pull the wheelchair onto its back wheels. The driver should gently lower the wheelchair down the kerb so that both of the rear wheels touch the ground at the same time, then lower the front wheels.

This method should only be used for kerbs and single steps; where there is a flight of steps two people are needed for safety.

**9.3** Although all council licensed vehicles are capable of carrying wheelchairs, they are not accessible to all wheelchair users. There are a number of wheelchair designs that are either too large for the ramps or to fit through the doorway or cannot be manoeuvred when inside the vehicle. There are also some passengers whose size and build, or nature of disability (i.e. those passengers requiring extended leg rests), prevent them from using a taxi vehicle safely.

However a driver cannot refuse to take a passenger in a wheelchair if the vehicle can take the passenger safely. It is against the law to refuse to take a wheelchair passenger. Failure to comply could lead to prosecution and the driver's licence being suspended or revoked.

## **9.4 How to ensure the safety of wheelchair users**

9.4.1 Both the restraint system for the wheelchair and the safety belt for the passenger must be used on every occasion. Failure to do so may render the driver liable in the event of an accident and could affect the driver's insurance cover.

- In the interest of the comfort and safety of both the passenger and driver, the ramps must be used to board a passenger using a wheelchair
- Passengers using wheelchairs must never travel facing sideways
- The wheelchair restraint mechanism must always be attached to the rearmost main upright tubes on opposite sides of the wheelchair frame in a position that does not allow it to fall off or slide down. The restraint must never be attached to wheels, spokes or footplates
- The brakes on the wheelchair must always be applied during the journey. Drivers should remember that the brakes alone are not sufficient for wheelchair restraint. They do however give a little lateral stability during the journey, which provides reassurance for passengers
- The wheelchair restraint mechanism isolating switch must always be in the "off" position before the journey begins. If it is left in the "on" position the wheelchair is still unrestrained
- It is important to remember that the wheelchair restraint mechanism offers no security to the passenger. It is a legal requirement for passengers to wear seatbelts provided unless they hold a medical exemption certificate
- Wheelchairs must always be taken out of the vehicle backwards.

## **9.5 Canterbury High Street**

All drivers must comply with the regulations applicable to the Canterbury Pedestrian Zone.

There are side streets where passengers can be dropped off and picked from close to the High Street.

Drivers are permitted to pick and drop off passengers who are disabled or medically unable to walk or a bride attending or leaving the Abode Hotel but the driver must be able to provide evidence that the passenger meets the criterion.

## **10.0 Equality Act 2010**

### **10.1 How does the Act affect taxi and private hire drivers?**

There are some changes in the law that came into effect in October 2010.

The Equality Act 2010 includes provisions relating specifically to taxi and private hire vehicles and disability.

### **10.2 Duties on drivers to assist passengers in wheelchairs**

10.2.1 The Equality Act 2010 places duties on the drivers of designated wheelchair accessible taxis and private hire vehicles to provide physical assistance to passengers in wheelchairs.

10.2.2 The duties will apply to the driver of any wheelchair accessible taxi and private hire vehicles which are on the licensing authority's list of "designated vehicles as set out in section 167 of the Equality Act 2010 (the 2010 Act)".

10.2.3 Section 167 of the 2010 Act has been adopted by the council. The licensing authority has compiled a list.

10.2.4 The adoption of Section 167 means that the council will maintain a list of designated wheelchair accessible taxi and private hire vehicles in accordance with Section 167(5) of the 2010 Act.

10.2.5 The duties set out at 10.4 below will apply to the drivers of those vehicles.

10.2.6 Any drivers who suffer from a disability or a condition which would make it difficult for them to provide physical assistance can apply for an exemption from the duties to offer assistance.

### **10.3 Wheelchair accessible vehicles**

10.3.1 Wheelchair accessible vehicles means that disabled persons who use wheelchairs can:



- (a) get into and out of vehicles in safety, and
- (b) travel in vehicles in safety and reasonable comfort, either staying in their wheelchairs or not (depending on what they prefer).

Warning - owners / drivers are advised to ensure that they keep up-to-date as to the implementation of proposed legislation changes requiring all vehicles to be able to take a passenger in a wheelchair. This advice is extremely important when an owner / driver is considering purchasing a new vehicle.

Discrimination against wheelchair users

Drivers face a fine of up to £1,000 and / or revocation / suspension of their licence if they refuse to transport wheelchair users or attempt to charge them extra.

From 6 April 2017 taxi and private hire vehicle drivers will be obliged by law to:

- transport wheelchair users in their wheelchair
- provide passengers in wheelchairs with appropriate assistance
- charge wheelchair users the same as non-wheelchair users.

#### **10.4 What are the legal duties placed on taxi and private hire drivers?**

10.4.1 The duties being placed on the drivers of designated wheelchair accessible taxi and private hire vehicles are (under Section 165 of The Equalities Act 2010):

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

#### **10.5 What does mobility assistance mean?**

Mobility assistance essentially means helping passengers who use wheelchairs by providing physical assistance. If the passenger wishes to remain in the wheelchair, the driver must help the passenger to get into and out of the vehicle.

If the passenger wants to transfer to a seat, the driver must help him or her to get out of the wheelchair and into a seat and back into the wheelchair; the driver must also load the wheelchair into the vehicle.

The driver must also offer to load the passenger's luggage into and out of the vehicle.

#### **10.6 What if a driver has a medical condition which prevents the driver from carrying out these duties?**

The Act allows for exemptions from the duties on medical grounds or if the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with those duties. It is the responsibility of drivers who require an exemption to apply for one from the council. The licensing authority decides if a driver should be exempt from the duties.

The legislation allows a driver to appeal to the magistrates' court within 28 days if the council decides not to issue an exemption certificate. The council is the delegated authority to decide if an exemption should be granted.

The notice of exemption must be exhibited in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard.

## **10.7 Assistance dogs**

### **10.7.1 Taxi and private hire drivers must carry guide dogs and other assistance dogs.**

Any driver who cannot carry an assistance dog on medical grounds must apply for an exemption certificate. The council may decide if an exemption should be granted.

Any driver who held an exemption on 01 October 2010 on medical grounds will continue to be exempt.

### **10.7.2 Exemption certificates for carrying assistance dogs**

- Where an application is made to the licensing authority for an exemption, it must be supported by medical evidence. Persons with such allergies will be under the care of a specialist consultant and will be required to produce reports from their consultant. If no exemption has been applied for and subsequently granted, drivers are still required to carry assistance dogs.
- The notice of exemption must be exhibited in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard.
- It is often difficult for vision-impaired passengers to identify the validity of exemption certificates. The council will introduce exemption certificates that are accompanied or incorporate features that are distinguishable to vision-impaired passengers, and that these are produced in consultation with the relevant authorities to ensure the certificates remain valid.

## **10.8 Transporting and assisting vision-impaired passengers and those with guide dogs**

### **10.8.1 When travelling in taxis or phvs, blind and partially sighted people may need specific assistance related to their disability, such as sighted guiding to the vehicle.**

### **10.8.2 The following guidelines are recommended for taxi and phv drivers to follow when transporting a vision-impaired passenger:**

- The driver should always ask the vision-impaired person what assistance is needed before making assumptions as to what might be required.
- When picking up a blind or partially-sighted person from their home or other premises, the driver should knock on the door, or enter the premises, to announce their arrival. It is helpful to know the customer's name.
- If the vision-impaired person asks to be guided to the vehicle, the driver should stand by the person's side and allow them to take hold of their arm / elbow in order for them to guide the customer along. The driver should never take hold of the passenger and drag or push them in a particular direction. The driver should tell the person where they are going and what obstacles or hazards might be approaching. They should tell them about doors opening towards or away from them and about steps, kerbs or slopes going up or down. This will help prevent accident and injury.

- On arrival at the vehicle, the driver should inform the passenger of the type of vehicle and which direction it is facing. Using their guiding arm, the driver should reach for the door handle and allow the passenger to slide their hand down their arm and get hold of the handle. The passenger will then hold the door and enter the car themselves.
- Once inside the vehicle, the driver should offer to help the passenger with the seat belt, and not set off until the passenger is seated and secure.
- During the journey, the passenger should be informed about any delays, or deviations to the route that they might have expected to take.
- Upon arrival, the driver should inform the passenger of the location, offer to assist the passenger to exit the vehicle and guide them to a safe location before leaving.
- Drivers should clearly inform the passenger of the fare or meter reading. (A 'talking meter' is recommended). When giving change, it is important to count out coins and notes into the passenger's hand.

10.8.3 When transporting a passenger with a guide dog, the driver needs to be aware of:

- If guiding a person with a guide dog, the driver should stand by the person's right-hand side (usually the guide dog will be on the left) and adopt the same guiding technique as above. They should not take hold of the dog's lead or harness and should not interfere when the owner tells the dog to do something, as this may confuse the guide dog.
- The driver should ask the passenger where they would prefer their guide dog to be. In purpose built taxis the dog will travel in the passenger cabin with the owner. In saloon cars, passengers are likely to travel in the rear of the vehicle with the guide dog in the foot well between their feet behind the front passenger seat.
- The front passenger seat should be pushed forward to make space for the dog. Guide dogs have been trained not to sit on furniture, including car seats.
- If guide dogs are carried in the front foot well and air bags are fitted to both the passenger and driver's side front panel, it is essential that the dog is lying down at all times. The driver should let the passenger know if this applies.

10.8.4 The licensing authority is aware of the national guidance to "take tough action where drivers breach their duties under Section 165 of the Act".

## **11.0 Enforcement and appeals**

### **11.1 Enforcement**

Where the council takes enforcement action it will continually review the case on its own merits to ensure any action taken is reasonable and proportionate.

#### **11.1.1 Delegated powers**

Any breach of the policy, statute, bye-laws etc will be reported to a Senior Officer with Delegated Authority (SODA) for consideration of appropriate action (unless the officer has authority to dispose of the matter through a warning, fixed penalty etc); this may include prosecution through the magistrates' court, reporting matters to the police, referral to internal officers with delegated authority, or if appropriate, referring to the licensing sub-committee or disposal in accordance with a senior officer's delegated powers. Officers may only operate within the delegated powers given to them by the council.

An officer may decide to:

- take no further action\*
- issue a verbal warning\*
- Issue a written warning, this includes a final warning\*
- revoke / suspend a licence
- refer the matter for further consideration under the council's decision making process
- issue fixed penalty notices\*
- institute court proceedings
- require an on-the-spot MOT to ensure that (a) construction and use regulations and (b) clean air legislation is complied with; the council will arrange and pay for the MOT.

\*Disposals can be given by an enforcement officer without referral to a SODA.

Each matter will be considered on its own merits. The officer will record the reasons for their decision taking into account the following factors (this list is not exhaustive):

- the seriousness of the alleged incident, breach, or offence
- whether any previous warnings have been issued or enforcement action taken and whether they are of a similar nature
- any other penalty already issued, e.g. fixed penalty, court fine, penalty points suspension
- the circumstances of the incident
- whether there are any aggravating circumstances, eg vulnerable person, passenger etc
- the representations of any complainant
- the presentations of the driver / operator or their representative including any admissions and mitigation.

## 11.2 Enforcement procedure

Appendix 2 sets out the procedure for referring the matter to the SODA in consultation with the Chairman of the licensing committee or to the licensing sub-committee for determination. The time periods are for guidance only.

The outcomes for any hearing of the SODA in consultation with the Chairman are:

- conclusion of the matter, including any disposal listed at 11.1.1
- referral to any internal hearing of the council or
- referral to an external process.

## 11.3 Hearings

Appendix 3 sets out the procedure followed by the council at hearings. The procedure may be amended or adapted by the council from time to time or during the course of a hearing. If there is any amendment, the driver, owner, operator or their representative will be given the opportunity to make representations in respect of the proposed amendment.

- 11.3.1 If an interpreter is required by a person appearing at a council hearing, the licensing officer (LO) must be informed at the earliest opportunity.
- 11.3.2 The council will aim to deal with all matters listed for appeal or enforcement hearings at the first hearing.
- 11.3.3 If a person fails to attend a hearing, the council may conclude the hearing in a person's absence provided the officer / councillors is / are satisfied that the person has had sufficient notice of the hearing time, date and venue.
- 11.3.4 The LO may grant an adjournment prior to the hearing if satisfied that there is good reason for the adjournment. Any decision to adjourn a hearing, together with the reason, will be provided to the SODA / councillors at the subsequent hearing.
- 11.3.5 The SODA / councillors may impose any reasonable condition as part of its decision at a hearing, e.g. if the matter being considered relates to an issue of poor driving, the driver may be ordered to take a taxi / phv driving test.

## 11.4 'Fit and proper person' / safe and suitable'

The leading case as to whether a person is a 'fit and proper person' is:

*McCool v Rushcliffe Borough Council [1998] EWHC Admin 695*

The test sets out the requirement to ensure, so far as possible, that those licensed to drive taxis or phvs are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers. (The test also applies to operators to determine whether they are 'fit and proper persons / safe and suitable').

In layman's terms the question to ask is "Would you let this person drive your daughter, son, mother etc alone in a car?"

Note: the modern term for 'fit and proper' in the Institute of Licensing's Guidance is 'safe and suitable'.

## 11.5 Appeal costs in the magistrates' court

If a person exercises their right to appeal to the magistrates' court and loses their appeal, the council will seek to recover all costs unless the appellant and council agree otherwise.

## **11.6 Drivers and operators duty to report investigations, court proceedings, cautions, convictions, sentences, police disposals etc**

11.6.1 A driver or operator must report to an enforcement officer immediately if they are investigated, reported, bailed by the police or court, reported for summons, cautioned, convicted or sentenced for any offence in or outside the UK.

11.6.2 If a driver reports a matter to the council, or if the council is advised by an external party, e.g. police, the SODA will consider whether a licence should be suspended or revoked as a result of the information.

11.6.3 The SODA may consult with third parties such as the council's Child Protection Officer and the Local Authority's Designated Officer.

## **11.7 Appeal against policy conditions**

If a person wishes to appeal against a provision in the policy, he / she may follow the council's decision making procedure at Appendix 1.

## **11.8 Right of appeal**

The first stage of the appeal process in respect of refusals, suspensions or revocations of licences should be the right to require licensing authorities to reconsider the original decision. Appellants have the right to bypass this stage and proceed direct to the magistrates' court.

All taxi and private hire licensing appeals will be heard in the magistrates' court.

There is a further right of appeal from the magistrates' court to the crown court.

## 12.0 National Register of Taxi Licence Revocations and Refusals (NR3)

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or private hire vehicle (phv) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or phv licence.

Therefore:

- Where a hackney carriage/ phv licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or 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:

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 [applying for] [being granted], a hackney carriage / phv driver licence. The authority has a published policy on 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 / set out separately]. 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. It is not intended

that any NR3 data will be transferred out of the United Kingdom. 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 at [contact details]. This includes submitting a subject access request. 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/>



## 13.0 CCTV in taxis and private Hire Vehicles

The licensing authority has a duty to contribute to safeguarding and take all reasonable steps to promote the safety of passengers and drivers.

The council must consider, and keep under constant review, whether to make the installation of council approved cctv equipment in vehicles is necessary whilst recognising that this must be balanced with passenger and driver privacy. To assist in this determination the licensing authority has considered the

- guidance provided by the Local Government Association – *Developing an approach to mandatory CCTV in taxis and phvs*
- position of the Information Commissioner’s Officer – the ICO regulates compliance / enforcement with privacy and data protection legislation
- position of the Surveillance Camera Commissioner – SCC regulates compliance / enforcement of surveillance cameras.

In order for the licensing authority to impose a mandatory condition for video and / or audio recording, the council must show that there is a need for the condition by

- assessing what evidence is available to support the adoption of the condition
- conducting a Data Protection Impact Assessment in order to mitigate privacy concerns – see ICO’s
  - *Guidance on Data protection Impact Assessments*
  - *Data protection code of practice for surveillance cameras and personal information*
  - *Guidance on the role of data controllers and processors*
- consideration of the SCC
  - *Surveillance Camera Code of Practice*

The council is of the opinion, that a mandatory condition is not necessary at the moment but the matter will be kept under review.

The council does not prevent individuals, drivers, businesses etc installing equipment but this can only be only in accordance with the ICO and SCC’s approval.

**WARNING!** Failure to comply with the legal requirements could result in a criminal prosecution.

## **Appendix 1**

### **Guidance for offences, breach of conditions, enforcement and delegated powers**

#### **Referral by the licensing officer (LO) and business support officer (BSO)**

The LO or BSO may refer a matter to the Senior Officer with Delegated Authority (SODA) who will make a decision in consultation with the Chairman of the licensing committee or refer the matter to the licensing sub-committee. The SODA will take into account the nature and type of the application or alleged behaviour / offence / breach, any relevant previous breach / conviction / resolution etc, the particular circumstances of each alleged / behaviour / offence / breach or conviction etc, the severity of the punishment imposed by the council / police / court and whether a case was dealt with by a magistrates' court or crown court.

#### **Delegated powers**

The BSO, LO and enforcement officers (EO) may deal with a matter in accordance with the policy, their individual delegated powers in the council's constitution and the enforcement concordat (see Appendix 3).

An EO, with prior consent of the SODA, may suspend a driver for a period of up to one month or until a specific event, eg for any breach of a condition or regulation contained in the policy or council bye-laws or any offence committed in contravention of the Town Police Clauses Act 1847 or the Road Traffic Acts unless the policy states otherwise.

A suspension or revocation imposed takes effect at the end of the period of 21 days beginning with the day on which the notice is given to the driver. A period of suspension must have a termination date unless the SODA authorises a period suspension to terminate on the conclusion of a specific event.

If it appears that in the interests of public safety that the suspension or revocation takes immediate effect, the notice to the driver must include a statement that this is so and an explanation why; the suspension or revocation takes effect when the notice is given to the driver. The notice must also include the driver's right to appeal the decision to the magistrates' court.

Any driver aggrieved by any decision to suspend or revoke with or without immediate effect may lodge an appeal to the magistrates' court.

#### **Enforcement actions**

The enforcement actions detailed in the policy are guidelines only; a guideline sanction may be varied to take into account the merits, aggravating, mitigating and personal circumstances of each individual case. Reasons for any decision must be recorded in writing and must be served on the applicant / driver together with written details of their right to appeal.

#### **Repeat applications**

The SODA and / or licensing sub-committee, after hearing an application or appeal, may direct that any subsequent application will not be considered by the LO or BSO, until a specified period of time has elapsed. This direction sets the time when an individual may submit a new, fully completed application, but it is not an indication that the new application will succeed.

## **General**

Any discourteous or threatening behaviour towards officers or councillors will be treated as an aggravating feature in any matter being considered, or a separate matter in its own right.

Any declaration that is untrue, false, incomplete or misleading in any way will be treated as a possible criminal offence and may be referred to the police for criminal investigation. It will also terminate any application process immediately.

Any untrue, false declaration etc will result in the application being rejected in accordance with the Institute of Licensing's Guidance. If the false declaration is made by an existing driver or operator, the licence will be seized and the driver / operator licence will be revoked.

The declaration for the grant of a licence or the renewal of a licence requires the driver to disclose whether they have been:

- convicted of a criminal offence
- cautioned for a criminal offence
- received another police disposal, eg community resolution
- convicted of a road traffic offence
- issued with any form of Fixed Penalty Notice
- bailed or summonsed for criminal investigations or court proceedings
- involved in any investigations or pending prosecutions

for any matter in the UK or elsewhere.

If a matter is not disclosed, even if it is a minor offence, it is a serious matter and will result in suspension / revocation and referral to the SODA and / or licensing sub-committee of non-disclosure.

## **The Institute of Licensing's**

*Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades  
Safe and Suitable?  
April 2018*

has been adopted by Canterbury City Council's Licensing authority in its entirety without amendment.

If and when the Guidance is up-dated, the Head of Safer Neighbourhoods has delegated authority to substitute the existing guidance.

## **Suspension and revocation of a driver's licence**

In accordance with the cases of *Singh* and *Pawlowski*, a suspension is a final determination. It is not lawful to:

- (a) suspend a driver's pending investigation or
- (b) revoke a driver's licence following a suspension for the same matter.

## **Specific Offences**

## Town Police Clauses Act 1847

Section	Offence
40	Giving false information on application for hackney carriage proprietor's licence
44	Failing to notify change of address of hackney carriage proprietor
45	Plying for hire without a hackney carriage proprietor's licence
47	Driving a hackney carriage without a hackney carriage driver's licence
47	Lending or parting with a hackney carriage driver's licence
47	Hackney carriage proprietor employing unlicensed driver
48	Failure by hackney carriage proprietor to hold hackney carriage driver's licence
48	Failure by hackney carriage proprietor to produce hackney carriage driver's licence
52	Failure to display hackney carriage plate
53	Refusal to take a fare
54	Charging more than agreed fare
55	Obtaining more than legal fare
56	Travelling less than lawful distance for an agreed fare
57	Failing to wait after a deposit to wait has been paid
58	Charging more than legal fare
59	Carrying other person than the hirer without consent
60	Driving a hackney carriage without proprietor's consent
60	Person allowing another to drive a hackney carriage without proprietor's consent
61	Drunken driving of a hackney carriage
61	Wanton or furious driving or wilful misconduct leading to injury or danger
62	Driver leaving hackney carriage unattended
64	Hackney carriage driver obstructing other hackney carriages

## Hackney Carriage Provisions - Local Government (Miscellaneous Provisions) Act 1976

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

## Private Hire Provisions - Local Government (Miscellaneous Provisions) Act 1976

Section	Offence
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as private hire driver
48(6)	Failure to display private hire vehicle plate
49	Failure to notify transfer of private hire vehicle
50(1)	Failure to present private hire vehicle for inspection as required
50(2)	Failure to inform local authority where private hire vehicle is stored if requested
50(3)	Failure to report an accident to local authority
50(4)	Failure to produce private hire vehicle licence and insurance
53(3)	Failure to produce private hire driver's badge
54(2)	Failure to wear private hire driver's licence
56(2)	Failure by private hire operator to keep records of bookings
56(3)	Failure by private hire operator to keep records of private hire vehicles operated by him or her
56(4)	Failure to produce private hire operator's licence on request
57	Making false statement or withholding information to obtain private hire driver's or operator's licence
58(2)	Failure to return plate after notice given after expiry, revocation or refusal to renew
61(2)	Failure to surrender driver's licence after suspension, revocation or refusal to renew
67	Charging more than the meter fare when hackney carriage used as a private hire vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taxi meter
73(1)(a)	Obstruction of authorised officer or constable
73(1)(b)	Failure to comply with requirement of authorised officer or constable
73(1)(c)	Failure to give information or assistance to authorised officer or constable

## Private Hire Provisions - Transport Act 1980

Section	Offence
64(2)(a)	Driving a private hire vehicle with a roof sign which contravenes section 64(1)

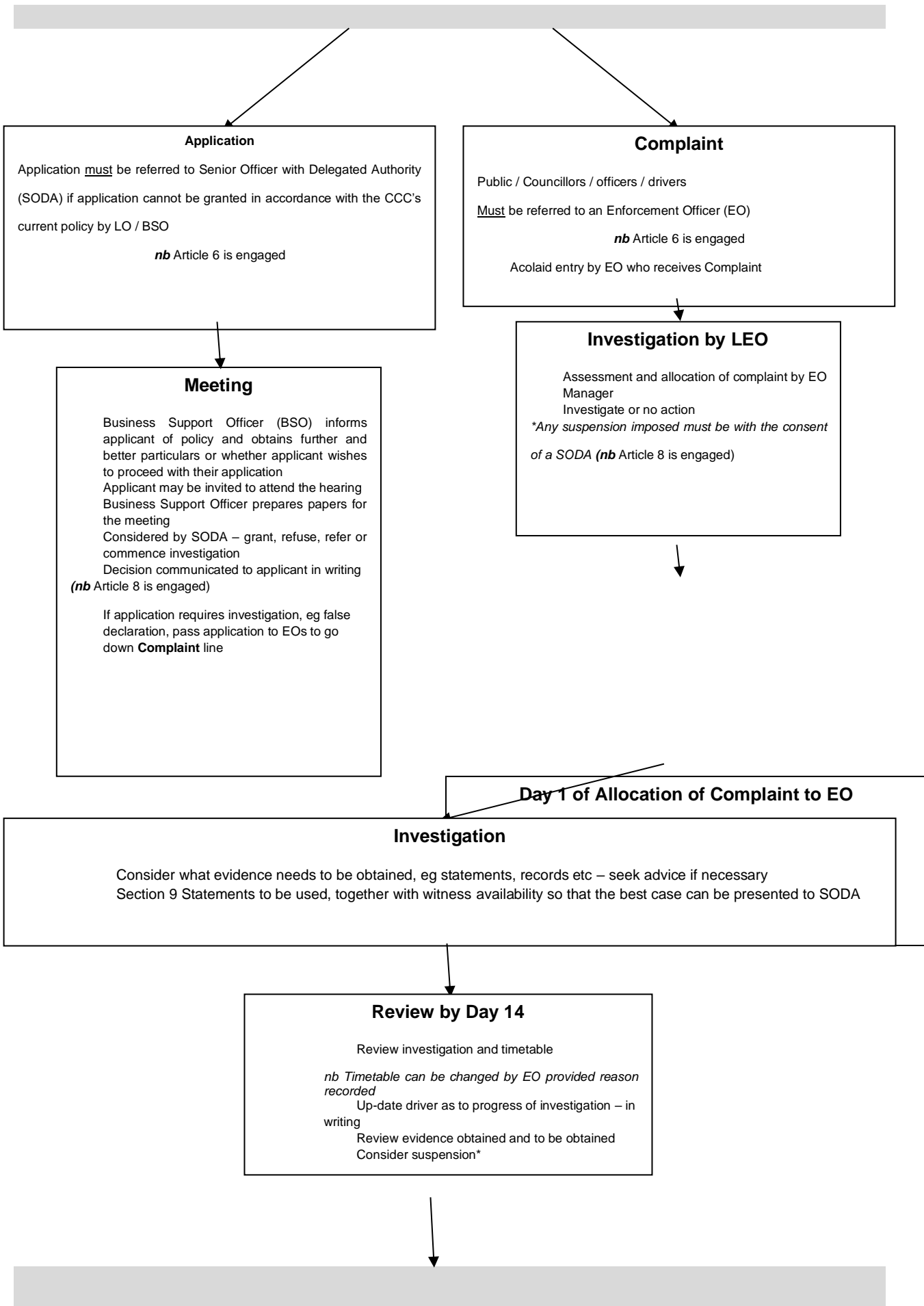
64(2)(b)	Causing or permitting a private hire vehicle to be driven with a roof sign which contravenes section 64(1)
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## Appendix 2

**PHASE 1**

**APPLICATION / INVESTIGATION**





**PHASE 2**

**ADMINISTRATION**

**Outcome**

EO to notify driver / operator of outcome, ie no action, warning, reporting or prosecution  
If prosecution, seek legal advice to lay information and consider suspension pending hearing\*

Or

if matter is to be referred to HSN and Licensing Committee Co-Chairmen, file submitted to the LO

**Report**

If matter referred to HSN and Licensing Committee Co-Chairmen

LO serves report, evidence, documents, representations etc to driver / operator, HSN and Co-Chairmen at least five working days before hearing date and  
LO notifies EO of confirmed hearing date – EO to up-date witnesses  
LO advises driver of date when written representations must be submitted by  
LO arranges interpreter if necessary

**PHASE 3**  
**DECISION MEETING**

**Meeting**

CCC Aim – to deal with matter at first meeting

Closed proceedings, matter may be dealt with in the absence of parties and witnesses – driver / operator is permitted to attend the hearing, and be represented, if they wish or they may submit written representations.

Persons present and order of business:

- LO – presents case
- Driver / operator – presents case
- HSN
- Licensing Committee Co-Chairmen
- Legal Officer if requested by HSN

**ACTION 1**

HSN to make provisional decision on matter and recommend penalty taking into account early admission or denial, mitigation, human rights, etc

**ACTION 2**

- Representations of Licensing Committee Co-Chairmen
- Disposal agreed or referred to hearing before Licensing Sub-Committee
- LO to arrange date and notification to parties, witnesses, Legal and Democratic Services etc if matter referred

Decision and reasons notice completed

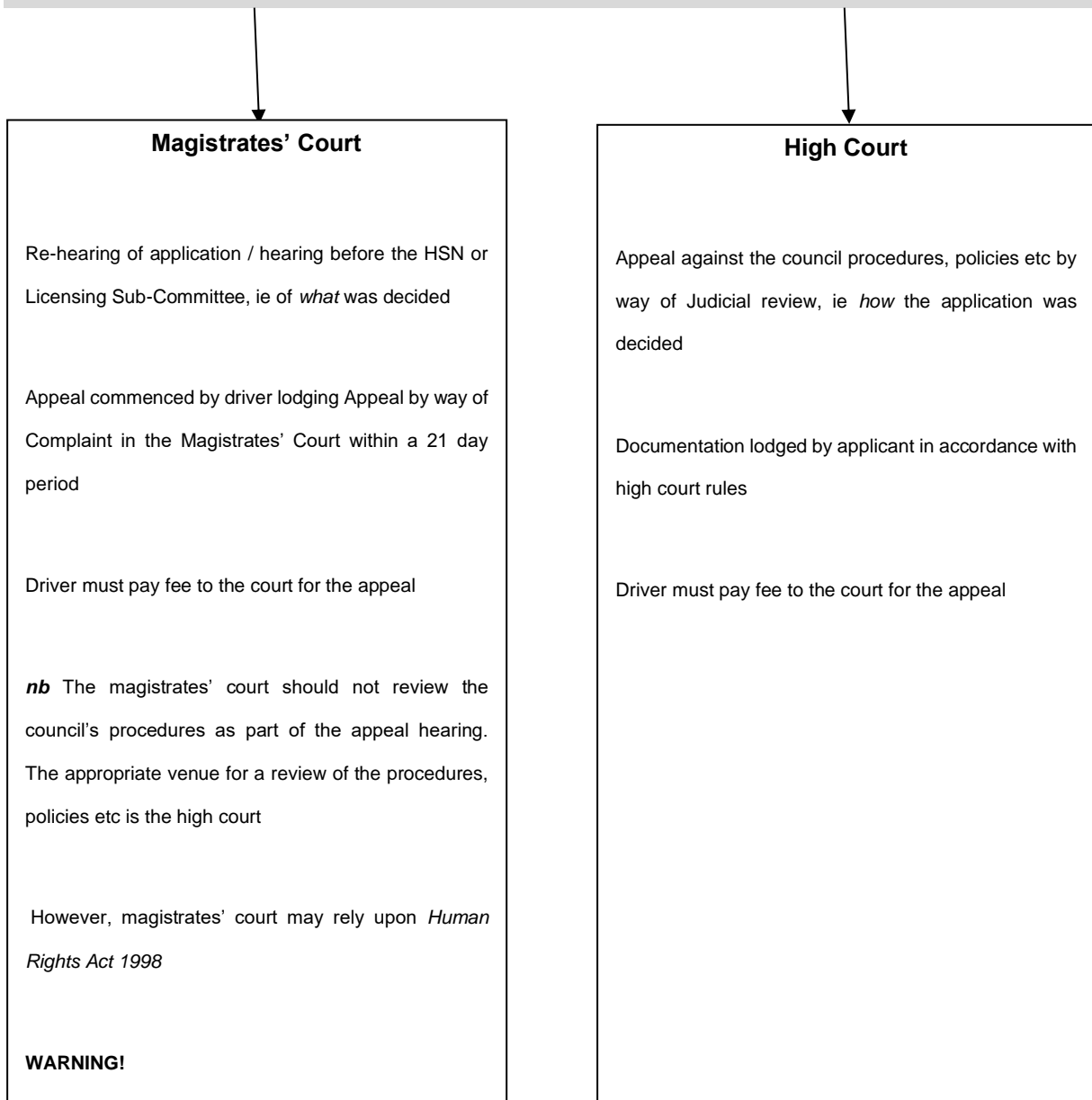
- Breach admitted or found
- Sanctions
- Decision notice given to or collected by driver / operator at hearing if driver / operator present and CCC copy noted
- Seizure of badges, plates etc if necessary
- EO and witnesses notified of outcome

Appeal information given to driver / operator

- Rights given in notice
- Period – 21 days
- Venue – magistrates' court / high court
- Suspension / revocation situation pending appeal if relevant and whether it is with immediate effect

**PHASE 4**

## APPEAL HEARINGS



Note a fee of £50 is payable for the determination of an application for the licensing authority to depart from policy; if the application is successful, the £50 will be applied to any fee due.

### Appendix 3 Enforcement Concordat

1	The initial contact between the licensing authority and licence holder will normally be informal with the provision of advice, guidance and support.
2	<p>Enforcement action can include the following progressive approach to achieve compliance:</p> <ul style="list-style-type: none"> <li>● verbal advice which may be documented</li> <li>● written advice</li> <li>● verbal warning which will be documented</li> </ul>

	<ul style="list-style-type: none"> <li>● written warning</li> <li>● statutory notice</li> <li>● formal caution</li> <li>● council hearing / suspension or revocation</li> <li>● criminal prosecution.</li> </ul> <p>The individual circumstances of the breach of the legislation / policy will determine the entry level of enforcement.</p> <p>All actions will be considered in accordance with the requirements of the Human Rights Act 1998 and each matter considered on its individual merits.</p>
3	<p>When prosecution is being considered, the relevant enforcement bodies will on a case-by-case basis decide which is the lead authority to prosecute the offence.</p> <p>Regard will be taken of the Code of Practice made under Section 10 of the Prosecution of Offences Act 1985 and issued by the Crown Prosecution Service. Due consideration will be given to any guidance and / or advice issued by government, local authority, association and other professional and technical bodies.</p> <p>Statements will be provided from one agency to another as necessary.</p> <p>Before deciding whether to refer a matter to a council hearing or prosecute a case through the court, the following factors will be considered:</p> <ul style="list-style-type: none"> <li>● the seriousness of the alleged breach / offence</li> <li>● the history of the person / business concerned</li> <li>● the willingness of the business / individual to prevent a reoccurrence of the problem and the level of cooperation with council officers, police and / or other agencies</li> <li>● whether it is in the public interest to prosecute</li> <li>● the realistic prospect of conviction</li> <li>● whether any other action (including a formal caution) would be appropriate</li> <li>● the views of the Complainant and other parties with an interest in prosecution.</li> </ul> <p>The licensing authority takes a proactive stance towards proper regulation of, and enforcement of the provisions of the legislation.</p> <p>The licensing authority will normally take the lead on all taxi and phv issues.</p> <p>Other breaches of the Act will be dealt with either directly or jointly as indicated above. The licensing authority will give full cooperation to any other agency in carrying out their investigations.</p>

#### **Appendix 4**

### **SODA and / or Licensing Sub-Committee Hearing**

#### **Procedure for Taxi and Private Hire Hearing**

Note 1: Hearings to be conducted at the council offices or at the Guildhall, Canterbury to provide a confidential venue

Note 2: The procedure replicates the procedure in the magistrates' court so that it removes the need for the magistrates' court to review the council's policies and procedures on appeal

Note 3: 'Best evidence' has been obtained throughout, e.g. Section 9 statements, taped interviews etc, in order to minimise preparation of appeal hearing documentation

Action	Responsible Member / Officer
<p><b>1 Introductions</b></p> <ul style="list-style-type: none"> <li>● HSN or Chairman</li> <li>● Councillors</li> <li>● Reserve councillors</li> <li>● Minute taker (if Sub-Committee hearing)</li> <li>● Legal officer (if present)</li> <li>● Licensing officer</li> </ul>	Chairman
<p><b>2 Housekeeping</b></p> <ul style="list-style-type: none"> <li>● Procedure if alarm sounds</li> <li>● Location of toilets</li> <li>● Request to turn off mobile phone, pager or similar device</li> </ul>	Chairman
<p><b>3 Legal advice to councillors and parties</b></p>	Legal officer
<p><b>4 Fair hearing clarification (Article 6)</b></p> <p>Licensing officer to clarify with driver / operator / applicant</p> <ul style="list-style-type: none"> <li>● That all documentation received</li> <li>● When he /she received documentation</li> <li>● Whether documentation is understood</li> <li>● If they are represented</li> <li>● Whether the driver / operator / applicant needs any assistance reading the documents</li> <li>● Whether an interpreter is needed</li> <li>● Any response to letters received</li> <li>● If pens, paper etc required</li> <li>● Had sufficient time to prepare</li> <li>● If they have any witnesses and are they present</li> </ul>	Licensing officer
<p><b>5 Procedure of hearing – explained by Licensing Officer at outset and during course of hearing</b></p> <ul style="list-style-type: none"> <li>● Licensing officer presents report before the HSN and / or Licensing Sub-Committee Members</li> </ul> <p>If an application:</p> <ul style="list-style-type: none"> <li>● Invite representations / evidence in support of application together with impact on family, job, income, expenditure etc</li> <li>●</li> </ul> <p>If breach admitted:</p> <ul style="list-style-type: none"> <li>● Ask driver / operator whether he / she admits alleged breach(es)</li> </ul>	Licensing officer

- If admitted, driver / operator invited to explain why breach occurred together with any mitigation, consequences to driver and family, eg job, vehicle, family, home etc
- Invite HSN / councillors to consider 'credit' for early admission, especially if attendance of witnesses avoided

If breach denied

- |   |                   |
|---|-------------------|
| ● Witnesses(es) in support of complaint         | Witness(es)       |
| ○ Statement of witness verbal and / or written  | Driver / operator |
| ○ Questions by driver / operator                | Licensing officer |
| ○ Clarification questions                       | HSN / Chairman    |
| ○ HSN / councillors questions through the Chair |                   |

Witnesses should not be present at any hearing until their statement is submitted

- |   |                   |
|---|-------------------|
| ● Driver / operator                                     | Witness           |
| ○ Statement of driver / operator                        | Licensing officer |
| ○ Clarification questions                               | HSN / Chairman    |
| ○ HSN / councillors questions through the Chairman      |                   |
| ● Driver's / operator's witness(es)                     | Driver / operator |
| ○ Statement of witness / questions by driver / operator | Licensing officer |
| ○ Clarification questions                               | HSN / Chairman    |
| ○ HSN / Members Questions through the Chair             | Driver / operator |

Driver's / operator's closing submission

## 6 If breach denied

HSN and / or Licensing Sub-Committee and legal officer retire to determine whether breach(es) committed	HSN / Licensing Sub-Committee legal officer
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HSN / legal officer should provide determination and reasons for determination, eg which evidence was relied upon, facts found on issues of dispute, records, weight of evidence etc	HSN / legal officer / licensing officer
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## 7 Determination

If breach(es) not found, hearing terminates

If breaches found, driver / operator invited to explain consequences to them and their family, eg job, vehicle, family, home etc	Driver / operator
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<b>8 Decision</b>	HSN / Licensing Sub-Committee and legal officer retire to consider decision	Licensing Sub-Committee legal officer
	Legal officer / licensing officer gives details of decision for each alleged breach, aggravating and mitigation features, credit for admissions, <i>Human Rights Act</i> considerations and rights of appeal, venue, time limits, situation pending appeal, suspension etc	Legal officer / licensing officer
	<b>Written notification given to driver / operator / applicant following the hearing</b>	Legal officer / licensing officer

## Appendix 5

### **Additional wording for decision letter concerning refusal of an application**

“In accordance with [insert appropriate reference to policy document or application paperwork explaining membership and implications of NR3], the decision to refuse your application will be entered onto the National Register of Taxi Licence Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)

- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or phv licence. Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence in future, but is intended simply to ensure that licensing authorities are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we may provide our reasons for the refusal of this application, in accordance with our policy at [details/link]. You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month. 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 at [contact details]. This includes submitting a subject access request. You always have the right to make a complaint to the Information Commissioner’s Office.”

### **Additional wording for decision letter concerning revocation**

“In accordance with [insert appropriate reference to policy document / application paperwork / letter to existing licence holders explaining membership and implications of NR3], the decision to revoke your licence will be entered onto the National Register of Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your: • name • date of birth • address and contact details • national insurance number • driving licence number • decision taken (but not the reason for it) • date of decision • the date the decision took effect. This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or phv licence. Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence, but is intended simply to ensure that licensing authorities are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we will provide our reasons for the revocation of this licence in accordance with our policy at [details/link]. You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data



for this purpose. The authority will consider any such requests and respond within one month. 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 at [contact details]. This includes submitting a subject access request. You always have the right to make a complaint to the Information Commissioner's Office."

### **Notification to existing licensees of NR3**

"To all hackney carriage / phv / dual [combined] licence holders

Dear licensee

National Register of Taxi Licence Refusals and Revocations

I am writing to make you aware of a new initiative which X authority is involved in to help strengthen hackney carriage / private hire vehicle (phv) licensing for the benefit of both passengers and responsible hackney carriage and phv drivers.

As you may be aware, the Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Taxi Licence Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or phv licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in the hackney carriage and phv trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or phv licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the taxi trade, safety groups and charities, the Department for Transport and by licensing authorities.

From [insert date], this authority will begin using the NR3. This means that from that point:

- Applications for new hackney carriage / phv licences and for renewals will be checked on the NR3.
- Where an existing licence is revoked or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of 25 years. Any relevant data entered onto NR3 which relates to existing licence holders may be considered as part of future renewal processes.

The information recorded on NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number

- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

Information will be retained on NR3 for 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the authority's published policy at [details/link]. Licensing authorities will still be required to consider each application on its own merits, but the introduction of NR3 will help ensure that they are able to do so on the basis of all the information that is relevant to an application.

All data processing and sharing undertaken by this authority on the NR3, and with individual authorities in regard to entries on the NR3 will be undertaken in accordance with the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR). The legal basis for processing this information is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or phv licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

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 at [contact details].

You always have the right to make a complaint to the Information Commissioner's Office.

Yours sincerely

Licensing authority."

### **Notification to former licence holders or applicants whose details will be entered onto NR3**

Dear XXX

National Register of Refusals and Revocations

I am writing to make you aware of a new initiative which X authority is involved in to help strengthen hackney carriage / Private Hire Vehicle (phv) licensing for the benefit of both passengers and responsible hackney carriage and phv drivers.

The Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or phv licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in both the hackney carriage and phv trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a taxi or phv licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the hackney carriage and phv trade, safety groups and charities, the Department for Transport and by licensing authorities.

From [insert date], this authority will begin using the NR3. This means that from that point:

- applications for new hackney carriage / phv licences and for renewals will be checked on the NR3
- where an existing licence is revoked, or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of [25 years / the authority's own data retention period]. As part of this process, it is intended that the details of your previous [licence revocation / refusal] will be added to the register in 28 days' time.

The information recorded on NR3 in respect of your case is 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 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the authority's published policy at [details/link].

Licensing authorities will still be required to consider each application on its own merits, but the introduction of NR3 will help ensure that they are able to do so on the basis of all the information that is relevant to an application.

All data processing and sharing undertaken by this authority on the NR3, and with individual authorities in regard to entries on the NR3 will be undertaken in accordance with the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR). The legal basis for processing this information is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or phv licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

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 at [contact details]. This includes submitting a subject access request. You always have the right to make a complaint to the Information Commissioner's Office.

You always have the right to make a complaint to the Information Commissioner's Office.

Yours sincerely

Licensing authority

## **Frequently asked questions**

***Why has the register been set up?***

NR3 has been developed to improve public safety and confidence in hackney carriage and phv licensing. There have been numerous high profile cases where drivers who have been refused licences or had a licence revoked in one area have gone to another area and received a licence in that area by failing to disclose their previous history. This undermines public safety, if there are legitimate reasons why a licence was refused or revoked, and damages confidence in the hackney carriage / phv licensing regime and trade. This is why the initiative has been widely supported by reputable drivers and firms, as it will provide a mechanism for ensuring information about refusals and revocations can be shared between all licensing authorities in a safe and secure way, removing this potential loophole.

### ***How will the register work – what information will be recorded?***

When an authority revokes a licence, or refuses an application for one, it will record this information on NR3. The information recorded 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.

Licensing authorities will then search the register when they are processing new applications or renewals. Where an authority finds a match for their applicant on NR3, it will contact the licensing authority that recorded the entry to seek more information, which, if shared, will then be used to help reach a decision on the application.

### ***Will I automatically be refused a licence if I am on the register?***

No. Licensing authorities are legally required to consider each licence application on its own merits, and cannot refuse an application simply because an applicant may be recorded on NR3. The purpose of NR3 is to ensure that authorities have the full information necessary to help them reach a decision on whether an individual is fit and proper. If circumstances have materially changed since the decision that has been recorded on NR3, it may be appropriate for another authority to award a licence.

### ***What if my licence is suspended?***

Suspensions of licences will not be recorded on NR3. This is because suspension should be used as either a short-term punishment or to overcome a short-term situation (e.g. driving or medical issues). Where a driver is no longer considered to be a fit and proper person to hold a licence, the licence should be revoked.

### ***Can I find out if my details are on the NR3?***

Individuals whose details are added to NR3 will be notified of this at the point at which they are advised of the decision to refuse or revoke a licence.

Outside of these times, an individual can make a subject access request (SAR) for any of their personal data held on NR3. The 'data controller' in respect of this data is this licensing authority, to whom a SAR should be submitted in the first instance. As the 'data processor', that is the organisation storing the data, the National Anti-Fraud Network will fulfil this request. Similarly, the

exercise of any other rights provided under data protection legislation should be made to this authority in the first instance.

### ***How long will details be held on NR3 for?***

Data will be retained on the register to help licensing authorities fulfil their statutory duty to be satisfied that a person is a fit and proper person to hold a taxi or phv licence. These duties are set out under sections 51, 59 and 61 of the Local Government (Miscellaneous Provisions) Act 1976; sections 13, 16 and 17 of the Private Hire Vehicles (London) Act 1998; section 3 of the Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003; sections 25 and 30 of the London Cab Order 1934; sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. In accordance with this purpose, data will remain on NR3 for 25 years.

### **Policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3**

Once an authority has signed up to the NR3, it is able to search the register when an application is received for a new drivers licence, or to renew an existing drivers licence. In this annex, the searching authority is referred to as 'the second authority.'

If a match is found, then a request can be made to the authority that entered the information onto the NR3 (in this annex, this authority is referred to as 'the first authority') asking for more details of the revocation or refusal of a drivers' licence by the first authority.

The first authority can then provide information to the second authority, enabling the second authority to take the earlier action into account and make an informed decision as to whether or not the licence should be granted or renewed.

To comply with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act, it is essential that the first authority which provides information about entries on the NR3 register, and the second authority that requests and receives such information, have a clear policy detailing how and when such information will be requested, provided, and how any information provided can then be used.

This is a suggested policy to address those situations. As each authority that signs up to the NR3 may at some point be both the first authority and the second authority for the purposes of this policy, the policy is drafted as a chronological progression through the process an authority may work through as either the first or second authority.

### **Policy for Council in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3**

In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

#### **1 Overarching principles**

This policy covers the use that this authority will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licence. (Throughout this policy reference is made to 'taxi drivers licence.' This generic term covers a hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.) This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

This authority has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, this authority will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes. For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application. (The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.)

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated. (Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see *The Criminal Procedure Rules R35.2*). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.)

Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined. (Decisions of the local authority, magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim 1st arose" (see *The Civil Procedure Rules R54.5*). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.)

The data will be held securely in accordance with this authority's general policy on the secure retention of personal data [which is available at...]. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure and destruction of personal data (which is available at...).

## **2 Making a request for further information regarding an entry on NR3 - This section relates to the submission of a request by the second authority**

When an application is made to this authority for the grant of a new, or renewal of, a taxi driver's licence, this authority will check the NR3. This authority will make and then retain a clear written record (this can be an electronic record) of every search that is made of the register.

This will detail the:

- date of the search
- name or names searched
- reason for the search (new application or renewal)
- results of the search and
- use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If this authority discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's data protection policy in relation to the use of any data that is obtained as a result of this process. This request will be made in writing in accordance with the form below. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

### **3 Responding to a request made for further information regarding an entry on NR3 - This section relates to the handling by the first authority of a request for information by the second authority**

When this authority receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years (This record can be combined with the written record of the action taken as a result of the request.)

This authority will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

This authority will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority is satisfied that the other authority's (the second authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed. If the first authority is not satisfied that the second authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of the first authority and the second authority. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but this authority (the first authority) will not disclose information relating to every entry. Each application will be considered on its own merits.



This authority will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's "*Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades*" (<https://www.instituteoflicensing.org/NewsJobsArticle.aspx?NewsID=11318&NewsOrJob=news>).

Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of scheduled 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

The officer will record what action was taken and why. This authority [Council/TfL] will make and then retain a clear written record (this can be an electronic record) of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- how and when the decision (and any information) was communicated to the requesting authority.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

#### **4 Using any information obtained as a result of a request to another authority**

When this authority receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications.

This authority will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority will make in relation to the application.

### **Information disclosure form**

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

*(For completion by requestor authority)*

Name of licensing authority requesting information: .....

Requestor authority reference number: .....

Name of licensing authority from which information is sought: .....

Name of individual in respect of whom the request is made: .....

Decision in respect of which the request is made: Refusal / revocation

Other details for this record: .....

Address: .....

Driving licence #: .....

NI #: ..... Reference number: .....

Declaration by requesting authority:

*The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / phv licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.*

*The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and phv licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.*

*To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request is attached to this document/can be accessed at ??.*

Signed:

Name: .....

Position: .....

Date.....

*(For completion by providing authority)*

Further information to support the decision recorded on NR3 in respect of the above named individual:

Declaration by providing authority

*The authority hereby confirms that it has conducted a data protection impact assessment.*

*It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.*

*The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / phv licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements*

Signed:

Name: .....

Position: .....

Date: .....