

3. Licensing objectives

The Council will adopt and carry out its Hackney Carriage and private hire licensing functions with a view to promoting the following licensing objectives.

- The prevention of crime and disorder, safeguarding of children & the vulnerable and the protection of the public.
- The safety and health of the public and drivers.
- Vehicle safety, comfort and access.
- Encouraging environmental sustainability.

In promoting these licensing objectives, the council will expect to see licence holders and applicants continuously demonstrate that they can meet or exceed specifications set by the council in the four licensing objectives and will be taken into account by the Council when making decisions. It is recognised that the licensing function is only one means of securing the delivery of these objectives. The Council will therefore continue to work in partnership with the industry, its neighbouring authorities, the Police, local businesses and local people towards the promotion of the objectives.

3.1 The prevention of crime and disorder, safeguarding of children & the vulnerable and the protection of the public

We cannot escape the consequences of child sexual exploitation. There have been too many cases of this having happened involving a small minority of drivers for it to be anything other than a primary responsibility of the licencing authority.

Whether it is a standalone issue or as here under the wider protection of children and prevention of crime, the duty to protect children from child sexual exploitation is undeniable and of paramount consideration.

What this will mean in a practical sense is that where there is even a suggestion of this happening, it will be treated as major investigation on behalf of the licencing authority. This may mean that enforcement action is taken, even where the evidence has not been tested in any other arena and provided it comes above more than mere rumour or innuendo, will in most cases lead to prevention of the licenced person from driving.

We recognise that the majority of drivers and operators will be equally alarmed that this has happened within their profession and we welcome their co-operation ~~we are seeing from them in terms of reporting concerns that they have~~. Contact details and reporting processes have been circulated and we would ask that all drivers and operators report their concerns in the knowledge that even one piece of information may well be the key to preventing or ceasing abuse of children.

The duty does not end with children but applies with equal significance to vulnerable adults. The duty extends beyond sexual exploitation to any area where the well being of a childany person at risk of exploitation. is at risk.

The following are vitally important functions of the authority:

- The prevention of crime and disorder.
- Safeguarding of children.
- Safeguarding of vulnerable adults.
- Protection of the Public.

The last covers a wide range of duties, from vehicle safety to safe driving. Protection of the public must be taken in its widest context and so issues such as domestic violence and other inter family abuse [such as forced marriages](#) are factors which are being considered as part of this duty.

These problems while seemingly not of relevance to a fee paying public, does demonstrate on the part of the perpetrator an inability to control behaviour appropriately. ~~Whether~~For instance violence whether it is directed against an adult or child it is a demonstrable loss of control. Where children and vulnerable adults are concerned it is clearly a safeguarding issue.

Other issues of relevance:

- Operating rules, conditions and disciplinary procedures.
- Vetting, qualification, training and monitoring licences. This is of particular importance. This will include consideration of a range of factors, such as cautions, convictions, other Court orders made to control behaviour and even where appropriate looking at somebodies social media profile. We will also make checks with colleagues in other local authority teams notably both child and adult social services.
- Omitting to work with the Police and the licencing authority.
- [Being involved in behaviour that the average person would consider to be inappropriate or of significant concern whether this has resulted in a criminal investigation/conviction, or not](#)

The correct test as set out in the legislation is whether the driver is a fit and proper person. An alternate view could be as follows:

Would you allow your son or daughter, spouse or partner, mother or father grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?

We also note a further test of “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”.

These tests provide the outline for the matters to be taken into account when deciding upon the suitability of a driver. Where it comes to the question of child sexual exploitation, then due to the damage caused the balance will always be in

favour of child (and vulnerable adult) protection and every decision will be made with the safety of the vulnerable foremost in the decision makers mind. While every case will be decided on its own merits, the normal practice will be to be protective of people potentially at risk

3.2 The safety and health of the public and drivers

This builds upon the factors above, but widens it out to include other issues of concern to the public.

- While the main role of the authority is to keep the public safe, we are also concerned about ensuring drivers are as safe as possible.
- Driver training qualification and performance, will all be looked at and reviewed. We welcome an ongoing dialogue with the drivers and operators to provide the best service we can – we have some of the most highly qualified drivers in the Country which we are proud of and hope to build on.
- Knowledge of the city.
- Health and fitness to fulfil the role, including regular health checks.
- Working between the groups on crime prevention measures.
- Measures to prevent noise, odour and light nuisance from Hackney Carriage and Private Hire activities.
- Vehicle specifications
- Safety at ranks for drivers and passengers.

3.3 Vehicle safety, comfort and access

- Standards of vehicle comfort and appearance.
- Space standards for vehicles.
- Location of ranks.
- Use of ranks.
- Provision of disabled facilities.
- Number of vehicles available.
- Provision for the aged and the young.
- Provision of safe and comfortable premises for customers to use.

3.4 Encouraging environmental sustainability

Working with stakeholders in the trade in finding methods of reducing vehicle emissions and not permitting licences for vehicles that are unable to comply with Euro Technology requirements

4. Code of Conduct When Working with Vulnerable Passengers

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, an elderly person or somebody with learning difficulties for example.

This code of conduct aims to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. The following safeguarding principles should be embedded into driver working practice:

- Drivers should carry photo ID at all times, and wear it in accordance with the conditions of licence.
- The driver/operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver / operator is responsible for the provision of appropriate measures, however they should check that they are in place.
- When making a journey with vulnerable passengers, photo-identification should be produced to the carer responsible for the vulnerable person. If necessary, you should obtain a record of the carer's contact details if there is no chaperone.
- If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.
- Always ask if a vulnerable passenger needs help, do not assume.
- Drivers should remain professional at all times and should not:
 - Touch a vulnerable person inappropriately
 - Make offensive or inappropriate comments (such as the use of swearing or sexualized or discriminatory language)
 - Behave in a way that may make a vulnerable passenger feel intimidated or threatened
 - Attempt to misuse personal details obtained via the business about a vulnerable person
- A log should be maintained by drivers when a service has been provided to a vulnerable passenger including the details of any incidents occurring / actions taken or refusals of service.
- If you are concerned about the safety, welfare or behavior of a vulnerable person, you should report this to the police by telephoning 101 (or in appropriate cases by calling 999)
- If you are concerned about someone else's conduct, you should report your concerns to the council's licensing department (01273 294429), The Police (101) or Crimestoppers (0800555111).

5. Hackney Carriage and Private Hire - Safeguarding children and vulnerable people, Human Trafficking and Child Sexual Exploitation, Forced Marriage and any other Statutory Defined Exploitation

Everyone is becoming aware of the well-publicised issues relating to Child Sexual Exploitation and Human Trafficking that have occurred throughout the country. These are abhorrent crimes, and the Licensing Authority has a duty to assist the Taxi and Private Hire Trade and the public in tackling this issue, and to protect those who are vulnerable and / or being exploited. We need the help of the whole community but especially taxi and private hire drivers and operators to identify those who commit these crimes, and protect those who most need our help.

Here is some information devoted to helping you as a license holder or applicant to be aware of those who may be vulnerable or being exploited.

~~However, t~~There is always more that can be done by everyone to help promote a better understanding of this subject, and we hope that this information will assist you in being able to identify those at risk, how to protect those who may be vulnerable or being exploited, how to ensure that your actions do not negatively contribute to such persons becoming victims, and to whom to report your concerns.

5.1 What You Can Do To Help Those At Risk

By following the Good Safeguarding Practices below according to your business model you will be helping to protect those who are vulnerable and / or being exploited. We need your help to bring to justice those who commit these crimes.

- If your business allows check at the point of booking if there are any vulnerability issues. This will allow you to prepare for the journey in the right way.
- Ask the person booking if an escort for the vulnerable passenger is required and if they are providing one.
- If necessary let your head office know (or keep a record) of the time you picked up the vulnerable passenger, the time and place you dropped them off and especially if there was any incident or anything significant occurred on the journey.
- If you refuse to take a passenger inform someone that you can't take them so they can deal with the person another way (e.g. hospital staff; family; security staff if a club/pub)
- Record incidents and refusals
- Be professional - try not to be over-friendly or talk about personal or intimate issues, don't exchange personal contact information such as passenger's telephone numbers or Facebook address.
- Avoid swearing or aggressive behaviour.
- Do not touch passengers.
- Never accept an offer of a sexual favour instead of payment.
- Make sure you are wearing ID, (your licence badge)
- Sit lone passengers in the back unless otherwise agreed.
- Ask or explain to passengers if using a centralised locking system - don't just put it on without an explanation.
- DON'T ASSUME that your passenger wants help - ALWAYS ASK
- Never follow a passenger into the house unless previously agreed / properly authorised
- ASK before making a journey shorter by going off the main roads/using isolated country roads, explain and give the passenger (or person booking) a choice of route.
- NEVER set off with a passenger without a specific destination address unless you are sure it is safe to do so
- NEVER double up passengers on a journey – even if passengers are travelling in a similar direction, they may pose a threat or risk to the other passenger

- If you think the passenger is afraid, offer to ring head office to tell them you have a passenger named XXXX with you and give the address and approximate time of arrival; this reassures the person that they are safe and someone is monitoring the trip.
- As with all professions if you are concerned about another driver's conduct report your concerns to your manager or the relevant agency.
- Organisations should have a lead member of staff for safeguarding; this person should be able to advise colleagues about how to manage vulnerable passengers and any incidents arising.
- ALWAYS KEEP A RECORD either in your cab or at head office, of ANY incidents or situations you were not happy with – the record should include a description of what happened and what you did to keep yourself and your passenger safe.

5.2 Who To Contact

If you think you may be carrying someone who is vulnerable and/or the victim of exploitation: Phone 999: Call the Police emergency number if you believe that the risk is imminent/assault happened or likely to. Alternatively record and report concerns to the Police by calling 101, Crimestoppers 0800555111 or Anonymously Online

<https://crimestoppers-uk.org/give-information/give-information-online/>

The safeguarding services if a child or vulnerable adult is involved: Brighton & Hove Front Door for Families (FDFF) on 01273 290400 or

FrontDoorForFamilies@brighton-hove.gcsx.gov.uk.

Guidelines relating to the relevance of Cautions and Convictions, Criminal Behavioral Orders, Injunctions to prevent nuisance and annoyance, County Court and High Court Judgments and Fixed Penalty Notices when determining applications for Hackney Carriage and Private Hire Licences.

9. The council is empowered in law to check for the existence and content of any criminal record held in respect of an applicant for a hackney carriage or private hire vehicle, driver or operator licence. ~~so w~~When submitting an application for such a licence an applicant is required to declare all convictions (whether or not spent), Cautions, Conditional Cautions, Community Resolutions, Criminal Behaviour Orders, County Court and High Court Injunctions, including Injunctions to prevent nuisance and annoyance or Fixed Penalty Notices (personally or business related), they have recorded against them, and any pending proceedings.

Note: Failing to disclose cautions / convictions or any of the above will be regarded as a serious breach of the terms of the license and action will normally take place. An applicant's failure to disclose any of the above will be taken into consideration when assessing their propriety to become a licensed driver.

As the idea of what "Fit and Proper" means, has not been defined, it will be at the officers discretion to decide what is relevant information and from what source it can be obtained. To be relevant, evidence has to be more than mere suspicion or

innuendo. Public protection is an important function and as such all information that may mean that a person or persons are not fit and proper will be considered.

Where there are aggravating factors such as hate crime (homophobia; racism and so on), this will be taken into account.

In making its decision the council will consider the nature of the information, its own guidelines on the relevance of Cautions, Convictions, Conditional Cautions, Community Resolutions Anti-Social Behaviour Orders, Criminal Behaviour Orders, Injunctions to prevent nuisance and annoyance, County Court and High Court Judgments and Fixed Penalty Notices (personally or business related), in the licensing process and any other factors which may be relevant. These guidelines will also be taken into account in relation to renewal applications, and decisions to suspend, revoke or not to renew a licence.

- 9.1 Each case will be decided on its own merits with the overriding objective of protecting the public.
- 9.2 A person with a conviction for a crime need not be permanently barred from obtaining a licence but should be expected to remain free of any conviction (depending on the nature of the offence) for, at least 3 to 5 years, (-however more serious offences may attract a longer period and in certain circumstances a lifetime applicability) before any application is entertained. The nature of the offence will be taken into account when deciding on the period that they should be offence free. However, persons with convictions for sexual offences of any nature or any offences related to children, vulnerable adults or other serious crime will not normally be issued with a licence. Persons subject to pending proceedings for such offences will be properly investigated and if appropriate will have any licence suspended or revoked / not renewed pending the outcome of the hearing of the case at court. If they are subsequently convicted or acquitted then the matter will be reviewed again.
- 9.3 Some discretion may be appropriate if the serious offence is historic, isolated and there are exceptional mitigating circumstances. However, as stated above, the overriding consideration must be the protection of the public.
- 9.4 Hackney carriage and private hire drivers are classed as 'regulated occupations' by the Rehabilitation of Offenders Act 1974 (exemption order as amended) which means that the Rehabilitation of Offenders Act 1974 does not apply to them (and thus their convictions are never spent). Furthermore, in respect of applications or renewals for Hackney Carriage Proprietor or Private Hire Operators Licences, the Council as a judicial authority under the Rehabilitation of Offenders Act 1974 may take into account spent convictions involving serious offences, (e.g. Death by Dangerous Driving, Drug Offences, Offences of Violence, Sexual offences, Dishonesty Offences or offences of an habitual nature).
- 9.5 Cautions require an admission of guilt and are never spent. The Council must therefore treat a caution as an admission of guilt and cannot be required to go behind the decision of the police or enforcing body. The age and gravity of the offence for which the caution has been accepted will be taken into account as for convictions.
- 9.6 Fixed penalty notices and Community Resolutions are now used in relation to

a range of offences and they will be taken into consideration depending upon their number, the nature of the offence and all the circumstances including the applicant's lack of compliance.

9.7 Civil actions including injunctions are also a relevant factor where it has an impact on the driver being fit and proper. These will be assessed on a case by case basis.

9.8 Note: Suspension and Revocation

The authority has the power to use its discretion to suspend or revoke or refuse to renew a drivers' licence depending on the seriousness of any established misbehaviour. Since the 2012 case of Singh v Cardiff City Council it has been ruled that an Authority cannot impose an interim suspension so the decision to suspend, revoke or refuse to renew must be a final one made after a considered determination of all the facts in a particular case. This will include the driver having an opportunity to put their case in person to an officer in the spirit of natural justice.

Fresh case law and or government guidance may change this position.

9.9 Immediate Suspension

The Council in determining its powers of immediate suspension or immediate revocation, will consider each case according to its merits. Where, after investigation, it is satisfied that the interests of public safety require such a course of action or an offence is committed of such a serious nature as to warrant such action, the decision will normally be to suspend or revoke with immediate effect. For the purpose of these guidelines, cautions will be treated as convictions.

9.10 Police Bail

Hackney Carriage and Private Hire Drivers are expected to adhere to this Policy's definition of "fit & proper" person. A person who already holds a licence with the Authority, if arrested for an alleged offence, and subsequently released by the Police on Bail or released while still being investigated, depending upon the nature of the alleged offence, can expect action to be a possibility. Where Suspension is put in place, normally the suspension shall remain in force until (the licence expires or) such time as the case is resolved by either the Police or by the Courts. The matter will then be reviewed.

9.11 Police Recommendation

Hackney Carriage and Private Hire drivers maintain close contact with the public, often carrying unaccompanied and vulnerable passengers, and are therefore expected to adhere to this Policy's definition of a "fit and proper" person. Any person, who in the view of the Police Officer represents a threat to the safety and well-being of the public, should expect action by the Director of Public Health. Any suspension shall remain in force until (the licence expires or) such time as the case is resolved by either the Police or by the Courts.

9.12 Offences or allegations involving sex and indecency offences including an element of sexual exploitation or violence against children or vulnerable persons

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not normally be granted. The authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list, other than in exceptional circumstances. As these offences cover a wide range of behaviour each case will be considered on its own merit. A very serious view will be taken of rape sexual assaults, gross indecency particularly where a child or adult with vulnerability is concerned. Allegations of sexual assault where drugs are a feature will also be considered to be very serious.

Except in the most exceptional of cases an existing driver or applicant that is arrested, charged, cautioned or convicted of offences that fall into the above category will have his/her licence suspended, revoked, refused or not renewed .

The same applies in relation to offences or behaviour involved violence against children or vulnerable adults including to any modern slavery/trafficking/forced marriage.

9.13 Child Protection and Safeguarding

When considering whether an applicant or driver is fit and proper and moreover what risk the driver presents to others, the authority will take into consideration all information that represents more than gossip, speculation and unsubstantiated innuendo. In addition to sexual activity and violence as referred to above this section relates to general issues around the protection of the vulnerable and could for instance include forced marriage; radicalisation and genital mutilation by way of example (and in so far as they are not already actionable).

In making its enquiries the authority will rely on all relevant information provided by other departments of the council. This will include information provided by Children's Services and the Local Authority Designated Officer (LADO) responsible for child protection. Issues raised on any DBS check will also be pursued and may be relevant evidence even where no charge follows. Enquiries will be made of the Police.

Where the authority has reasonable cause for concern based on the information from these and other relevant sources it will act appropriately to safeguard children and young persons. As the prevention of child sexual abuse is such an important issue, there will be a presumption in favour of protective measures.

This also extends to other vulnerable groups who may be at risk of exploitation ~~such as vulnerable adults~~. This may mean that based on this information an applicant will not be allowed to proceed or an existing driver may have his/her licence suspended, revoked or not renewed. The nature of the issue will determine time periods for refusal or revocation

9.14 Exploitation

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

9.14 Drugs

An applicant or existing driver with a caution / conviction for a drug related offence should normally be required to show a period of at least three years free of any caution / convictions before any application is entertained or a minimum of three years after detoxification treatment if applicant was drug dependent. Where the offence involves supply or production of drugs then the minimum period will normally be 7 years, but will be determined by the facts of the situation assessed on its own merit.

Where there is evidence of prohibited drug use or abuse of prescription medication the applicant or existing driver will be expected to produce medical evidence to confirm to the Council's satisfaction that they are free of ~~illegal~~ substances (in so far as it impacts on their driving). The Council reserves the option to seek its own expert medical evidence where necessary.

9.16 Possession of a Weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted normally until at least 7 years have elapsed since the completion of any sentence imposed. As this offence covers a wide range of behavior each case will be judged on its own merit. A serious view will be taken where a weapon was used or displayed in a public area.

9.15 Violence

As hackney carriage and private hire drivers maintain close contact with the public, a grave view will be taken with applicants who have cautions / convictions for grievous bodily harm, wounding, assault causing ABH, assault PC or common assault / battery (and any other offence that has an element of violence such as affray or false imprisonment).

Dependent on the nature of the assault a minimum of three years free of cautions / convictions should be shown before an application is entertained. Any grant of of a licence will be entirely at the authorities discretion and will depend on the facts known to the authority. and even then a strict warning will be administered. An existing licence holder could expect his licence to be suspended or revoked if convicted of these offences. The same applies where evidence of violent behaviour has been adduced before the civil courts.

The authority reserves the right in relation to violence but also other offences as

appropriate to seek / obtain independent medical advice about the individual concerned.

Crimes Resulting in Death

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

9.16 Criminal Damage

As this offence covers a wide range of behaviours each case will be judged on its own merits. A serious view will be taken if the offence involves deliberate fire setting, the offence was committed in a group, the damage caused was of high value or the offence had a clear racial/ religious or homophobic motivation. An applicant with this type of more serious conviction/caution should normally be required to show a period of at least three years free of any caution / convictions before any application is entertained. Existing drivers convicted or cautioned for these types of serious criminal damage offences could normally expect to have their licence revoked.

9.17 Dishonesty

Licence holders are expected to be person of trust. The widespread practice of deliveries for companies, taking children to school and families on holiday shows this trust. It is easy for dishonest drivers to defraud foreign visitors when giving change, or other customers by taking them by other than the shortest route. Lost property can be kept by unscrupulous drivers. For these reasons a serious view will be taken of any cautions / convictions involving dishonesty. In general, a minimum period of at least three years free of any cautions / convictions will be required before entertaining an application for a hackney carriage or private hire drivers licence by the Council. Any existing driver convicted of offences involving dishonesty may expect any licence held to be suspended or revoked and a possible ban on holding a hackney carriage or private hire driver's licence for three year period at minimum after conviction. The same applies where evidence of dishonest behaviour is adduced before the civil courts.

The amount of time will be at the discretion of the authority and will be determined by the facts of the situation.

9.18 Discrimination / Hate Offences / Harassment

An applicant or existing licence holder with a caution / conviction relating or to discrimination or harassing another person or legal findings against them in the civil courts for a discrimination or harassment related offence matters should be required to show a period of at least a minimum of three years free of any caution / convictions / incidents before any application is entertained.

Where no court finding has been made but the authority has formed the view based on evidence that there are issues of concern then they may act.

9.19 Minor Road Traffic Offences

A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles).

Isolated convictions or fixed penalty notices for minor traffic offences should not prevent a person from proceeding with an application. Any new applicant must have held a full drivers licence as issued by DVLA for a period of twelve months without any period of suspension during those twelve months. Licence holders convicted during the period of licence of such an offence may be warned as to future conduct, ~~and that any disqualification from holding a full DVLA licence will lead to revocation of any hackney carriage or private hire licence held with the Council or where appropriate may have their licence suspended or revoked for up to a time depending on the circumstances.~~

9.20 Major Road Traffic Offences

A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance.

Where there is an isolated historic conviction for reckless driving, dangerous driving or driving without due care and attention and similar offences, these will merit for new applicants at least a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers ~~but may lead to suspension or revocation of their licence.~~ However, ~~f~~For applicants with more serious offences such as convictions for causing death by dangerous/careless driving a licence will not normally be granted. Existing drivers can expect their licence to be revoked and no further application will normally be considered until a period of at least ~~three~~ seven years ~~has elapsed~~ free from conviction. ~~s has elapsed.~~

9.21 Driving under the influence of Drink or Drugs/Using a hand held telephone or hand a held device:

9.21.1 with a motor vehicle.

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs. A serious view will be taken of cautions / convictions for driving or being in charge of a vehicle whilst under the influence of drink or failing to provide an evidential specimen. An isolated and historic incident will not necessarily

~~debar an applicant provided they have been at least three years free of cautions / convictions after the restoration of their full DVLA licence but strict warnings will be given as to future behaviour. More than one caution / conviction for these offences will raise grave doubts as to an applicant's fitness to hold a hackney carriage or private hire drivers' licence. At least one year should elapse (after the restoration of the full DVLA driving licence), before an applicant is considered for a hackney carriage or private hire driver's licence. If the applicant is found to be alcohol dependent a minimum period of five years should elapse after treatment is completed before a licence application is considered.~~

9.21.2

~~Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later. Guidance on determining the suitability of applicants and licensees in the hackney and private hire tradesA driver found guilty of driving passengers for hire and reward whilst under the influence of alcohol will normally have his hackney carriage or private hire drivers licence revoked immediately and be banned from holding a hackney carriage or private hire drivers licence with the Council for a minimum period of three years after the restoration of their full DVLA licence. Where there is strong evidence that some one is driving while under the influence of any intoxicant this may lead to action.~~

9.21.3 Drunk or Evidence of Drug use but not in a motor vehicle.

An isolated caution / conviction for drunkenness or possession of drugs need not debar an applicant from obtaining a licence, however, a number of cautions / convictions for drunkenness these matters could indicate alcohol dependency necessitating a medical examination, (see 9.14. above) and possibly suspension or revocation.

9.21.4 Where an applicant has a conviction for using a hand-held mobile telephone device whilst driving, a licence will not be granted until at least 1 year has elapsed for a first offence and 5 years for subsequent offences since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

9.22 Insurance Offences

9.22.1 with a motor vehicle.

A serious view will be taken of any caution / convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily debar an applicant provided he has been three years free of any caution / conviction, but strict warning will be given as to future behaviour. More than one caution / conviction for these offences will raise grave doubts as to an applicant's fitness to hold a hackney carriage or private hire licence.

9.22.2 A driver found guilty of driving passengers for hire and reward whilst without insurance will normally have his hackney carriage or private hire driver's licence revoked immediately and be banned from holding a hackney carriage or private hire driver's licence with the Council for a minimum of five years.

9.22.3 Any applicant with three insurance offences or more will not normally be considered fit and proper to hold a hackney carriage or private hire licence with the Council.

9.25 Hackney Carriage and Private Hire Offences

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use set out elsewhere), a licence will not normally be granted until at least a minimum of 3 years have elapsed since the completion of any sentence imposed

9.26 Vehicle use Offences

Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not normally be granted until at least a minimum of 3 years have elapsed since the completion of any sentence imposed.

9.23 Breaches of Licensing Conditions (not ~~connected~~connected with Hackney / Private Hire), Public Spaces Protection Orders, Community Protection Notice, other Local Authority Offences and Fire Authority Offences

Isolated convictions / cautions for breach of licensing conditions or other local authority offences should not prevent a person from proceeding with an application but these offences may be considered when determining if an applicant should be granted a licence. Anyone found to be in breach of a Public Spaces Protection Order (PSPO) or issued a Community Protection Notice (CPN) will be considered liable for investigation. These matters may be considered when determining if an applicant should be granted a licence. Licence holders committing offences during the period of licence may be warned as to future conduct and may lead to revocation or suspension of any hackney carriage or private hire licence held with the Council.

9.24 Criminal Behaviour Orders / Injunctions or any other order under the Anti-Social Behaviour and Policing Act 2014

Criminal Behaviour Orders / Injunctions to prevent nuisance and annoyance during their current term or within three years of their final date should not prevent any person from proceeding with an application, but it will be considered, taking into account all the circumstances, and severity of the behaviour, when determining if an applicant should be granted a licence.

If the driver is already licenced then in all likelihood this will lead to suspension or revocation.

9.25 County/High Court Injunctions

Any Court injunction and / or order relating to anti-social behaviour especially those for harassment or violence (including domestic violence) within the last three years should not prevent any applicant from proceeding with an application, but will be considered when determining if an applicant should be granted a licence, taking into

consideration the nature and severity of the behaviour and all relevant circumstances.

If the driver is already licenced then in all likelihood this will lead to suspension or revocation.

9.30 Other Issues.

If any applicant or Licensed driver is or has been under investigation in the Court process relating to, or subject to any order finding that is a breach of any statutory provision or is subject to an adverse court finding which is or maybe of concern to the licensing authority then the authority can refuse, suspend or revoke a licence, for that period it deems appropriate subject to proper reasons being given.

9.26 Scanners

Anyone convicted of the use of a radio scanner will normally be banned from holding any licence for a minimum of a five-year period.

9.27 Notes

Any information disclosed to the Council will be kept in strict confidence and will only be taken into account in relation to the application and will be retained no longer than necessary. It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required by the application for a licence, punishable by up to seven years imprisonment upon conviction.

10. Procedure for Licensing Hackney Carriage and Private Hire Drivers.

This section relates specifically to driver conduct.

10.1 Any driver must be a fit and proper person. It is not possible to give a precise definition of what this is, but at its heart is keeping passengers safe and free from risk. It is the responsibility of the applicant to satisfy the council that they are fit and proper and that they are safe and suitable to hold a licence.

The Council must ensure that applicants / licence holders are and remain fit and proper to hold a licence. In assessing whether someone may be fit and proper the Council will take into account the following, and not exclusively, information in to account:

- Criminality
- Good Character
- Human Rights
- Period of holding a driver's licence
- Number of endorsed driving penalty points
- Right to work
- Medical fitness
- Enhanced driver Competence

- Geographical knowledge of the area
- Professional Qualifications (Btec/NVQ)
- Disability Awareness
- Spoken English

In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards and other statutory agencies.

Brighton & Hove City Council condemns all incidents of harassment whether racist, religiously motivated, homophobic, transphobic or due to gender or disability, whether perpetrated by Council staff, employees, agents, third parties or those involved in providing licensed taxi service whether hackney or private hire. If incidents are reported to the Council they will be investigated and where warranted enforcement action taken against the perpetrator. It is clear under the law that if the matter was to go to Court on appeal then these allegations can and should be put before the Court to help it decide whether the driver or operator is a fit and proper person.

10.2 Criminal Cautions / Convictions

As the correct test is that a driver must be a fit and proper person – we take into account a range of issues which might bring this in to question. The rehabilitation of offenders provisions do not always apply and spent convictions can be taken into account if they are relevant and serious. Cautions although generally perceived be lower level will for the purposes of a driver license be relevant and taken in to account.

Failing to disclose cautions convictions or any of the issues below will be regarded as a serious breach of the terms of the license and action will normally take place. The list of issues of concern are:

- Criminal convictions.
- Cautions.
- Community resolutions.
- Anti-social behavior orders
- Criminal Behavioral Orders
- County Court injunctions relating to behavior.
- High Court injunctions relating to behavior.
- Fixed penalty notices (personally or business related).
- Motoring convictions and penalty notices.

In all cases the licence holder must within 3 days disclose to the Council the details of any of the above imposed upon him or her or where their drivers are using their hackney carriage the details of their driver. This covers the period they hold a licence of any kind. In the case of a new application this covers the period leading up to the application.

10.3 Hiding information / evidence

Any attempt to hide information - such as turning off CCTV during an incident, will be regarded as a serious matter and the driver will have to establish a valid reason why this happened. The Council can and will draw an adverse inference from any such action.

Part F

Procedure for Licensing a Private Hire Operator

A private hire operator ('an operator') does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the vehicle (except where they are also the licensed driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes. Any person with a management and Governance role of an operator is subject to the same duties as a driver in relation to criminal conviction, caution and any other court order

65. General

- 65.1** Operators must be licensed in the same district as the district in which they have their office, and only make use of drivers and vehicles that are also licensed in the same district for which they hold a licence.
- 65.2** Anyone who makes provision for the invitation or acceptance of bookings for a private hire vehicle must hold an operator's licence, (with the exception of those who only operate vehicles covered by section 75 of the Act of 1976). This means that any individual (group or company) which advertises the services of any private hire vehicle with the services of a driver for hire and reward, or has a mobile telephone, smart phone app or pager which is carried within a licensed vehicle then that driver and vehicle have made provision for the acceptance of bookings for hire and reward and will be required to hold a private hire operator's licence.
- 65.3** Brighton and Hove City Council are subject to duties under the Equalities Act 2010 which includes the duties to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act. In relation to the Hackney and Private Hire as the licensing authority we are wishing to ensure that the needs and requirements of those with a disability are being acknowledged and met.

Primary issues for the Council to take note of are:

- Mobility – this is being addressed by the introduction of wheelchair accessible cabs. It is noted that certain service users who may have mobility issues still prefer old style saloon cars. An Operator should be able to respond as appropriate where a particular type is requested
- Visual impairment - drivers to be aware that greater assistance will be required. As per the detail already included in this document.
- Hearing impaired – note should be taken that those with hearing difficulties should wherever possible be provided with a text service.

- Awareness of those with mental health issues.
- Awareness of those with learning disabilities.
- Training for drivers on disability awareness for instance not assuming that because someone has slurred speech that they are drunk as opposed to having neurological disorder.

65.4 To ensure disabled passengers in wheelchairs receive an equal service any Operator operating 100 or more vehicles must ensure that at least 20% of their vehicles are wheelchair accessible.

65.5 It is a requirement that the operators can on request provide monitoring information. What is required are figures on the numbers of journeys undertaken by those with an obvious disability or where one has been declared – personal information is not required. In addition where there has been an issue around a disability the details of that issue and what if any steps were taken to address that and prevent its reoccurrence.

This information will be required to be provided annually. Failure to do so may result in an Operators Licence being suspended or revoked

66. Advice to Operators

Within the Conditions of your licence you are responsible for many items in relation to your business, the drivers working through your circuit and the vehicles used. You may be required to display or produce various items to various Officers, visiting your premises, on demand.

These include;

D.T.I. Radio licence.

Company Register Certificate

Planning Permission

Public Liability Insurance.

Health and Safety Policy.

Health and Safety Notices.

Shops and Factories Offices Notice.

Advice on Lifting Notice.

Fire Evacuation Notice.

Accident Book.

First Aid Kit.

Fire Extinguishers.

Operators Licence.

Adequate Lighting

Booking Records.

Diary of Advanced Bookings Vehicle Licences.

Copy of Vehicle Licences.

List of Vehicles with details.

List of Drivers with details.

Company policy & procedures document in relation to those with a disability

Monitoring records of the use of your service by those with a disability

71.1 The Records of Bookings MUST show;

Date and Time made.
Name and Address where possible of hirer.
Personal, Telephone, Web or App booking.
Destination where possible
Time of Pick-Up.
Point of Pick-Up.
Time Allocated to Driver.
Allocated to which Vehicle.

71.2 The Records of Vehicles MUST show;

Registration of Vehicle.
Council Plate Number.
Name and Address of Owner.
Any Radio Call Sign.
Number Licensed to Carry.
Name and Address of ALL Drivers.
Date Commenced Using Vehicle.
Date Ceased Using Vehicle.

71.3 The Standards expected of an Operator include;

Punctual Attendance for Bookings.
Clean Premises with Public Access.
Premises Heated to standard.
Premises Ventilated to standard.
Premises well lit.
Seating if Public Access.
Radio Equipment in Working Order
Correct Radio Procedures used
Only use the services of drivers and vehicles licensed by Brighton & Hove
City Council
Check Private Hire Driver Licences are valid.
Ensure Only Licensed Drivers are used to drive licensed Vehicles
[Any staff employed should be trust worthy and honest. A Disclosure & Barring \(DBS\)
check is Recommended](#)
Maintain Driver Standards Ensure Vehicle Licenses are valid.
Check Vehicles Clean and Safe.
Ensure Insurance is Valid.
Check Vehicle for Damage.
Ensure Plates Displayed Correctly.
Report Any Driver Offences
Report any Accidents.
Report any Lost Property.
Assist with Police Link calls.
Keep all Records for 6 months.
Give Fixed Price Quote if Requested.
Telephones are in Working Order.
Report any changes of Address.
Report any changes of Director(s).

72. The Operator

- 72.1** The application form must be complete and returned to the Taxi Licensing Office.
- 72.2** Every applicant will be checked to ensure that they are a fit and proper person to hold a private hire operator's licence.
- 72.3** The applicant is required to provide proof of holding a radio transmission licence (and planning permission for any aerial if required) if such radios are used by the operator.
- 72.4** In the case of operators who invite the public to make bookings in person at a premises, the prospective premises will be inspected to ensure compliance with the following;
 - 72.4.1** clean, adequately heated, ventilated and lit, both for bookings and waiting,
 - 72.4.2** if required waiting area has adequate seating facilities.
- 72.5** The operator premises to be licensed must be situated within the district of Brighton & Hove.
- 72.6** The operator may only utilise drivers and vehicles also licensed by Brighton & Hove City Council.
- 72.7** All operators premises to which the public have access must be covered by public liability insurance to cover all risks.
- 72.8** Planning permission for operating purposes maybe required and it is the operator's responsibility to ensure any permission required is granted and produced to an authorised officer at the time of application.
- 72.9** All operators will be required to have a document setting out their policies and procedures in relation to those with a disability. They will also be required to undertake monitoring of use of their service by those with a disability and provide a summary of monitoring in a format as required by the Director of Neighbourhoods, Communities and Communities annually. Failure to do so may result in the suspension or revocation of an Operators Licence.
- 72.10** All operators must ensure that all drivers of wheelchair accessible vehicles are trained and have passed the Driver and Vehicle Standards Agency (DVSA) taxi wheelchair exercise test or; equivalent (as decided by the Director) or; the Catstream Drivers Disability Awareness Training or MET College Certificate.
- 72.11** All operators must ensure that all drivers do not work excessive hours and have adequate breaks between shifts
- 72.12** All operators must ensure that all Brighton & Hove Vehicles operated under the licence comply with the current Brighton & Hove CCTV conditions. See sections 192 & 193.
- 72.13** No licence will be issued until all licence requirements are met to the satisfaction of the authorised officer and the appropriate fee has been paid.

73. Notes.

Any requirements of legislation which affect the operations being carried out under the terms of this licence shall be regarded as if they are conditions of this licence. Case law has shown that anyone making provision for the acceptance of bookings for private hire must be licensed in the District where such provision is made (this includes such things as mobile telephones, pagers and redirected calls by any electronic means) and such

bookings must be fulfilled by drivers and vehicles licensed in the same district as which the operator holds his licence. So if an operator accepts a booking a mobile telephone in a district other than the one in which he is licensed he will commit an offence of operating in an unlicensed manner.

Part H

74. Advice to vehicle owners

Any proprietor is subject to the same consideration as a driver in relation to criminal convictions, cautions and other court orders.

Your licence is issued subject to the vehicle being mechanically fit and meeting the requirements of licence conditions. Your vehicle could be required to undertake inspections by various Officers and failure to meet the standards required may result in the suspension of the licence and possible revocation.

We would advise that attention be given to the following;

Vehicle Insurance is valid.

Road Fund Licence is valid.

Certificate of Compliance is valid

Driver holds valid DVLA. licence.

Driver holds Brighton & Hove driver licence.

Check vehicle complies with law.

Boot kept clear for luggage.

Vehicle clean inside and out.

All accidents are reported.

Any change of address reported.

Any change of vehicle reported

Carry a Fire Extinguisher.

Meter must be sealed if fitted

Roof sign must be fitted (HC)

Display tariff inside vehicle.

Meter must be fitted (HC).

Display vehicle plate number inside.

Carry copy of insurance in vehicle.

Maintain to "Exceptional Condition"

Ensure attend for Interim Inspection.

Display plate on exterior of vehicle.

Roof sign correctly positioned (PH).

Demonstrate that drivers are adequately trained in the embarking, disembarking and safe carriage of passengers in wheelchairs.

Ensure that the vehicle is not used for illegal or illicit purposes

Do not let anyone drive who does not hold the correct type of licence for the type of vehicle, at any time (i.e. they must hold a private hire or hackney carriage driver licence issued by Brighton & Hove City Council, depending on the class of vehicle).

This list is for advice only and is not exhaustive. Failure to comply with certain items above could lead to arrest and a fine of up to £2,500.

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