

**LICENSING POLICY OF UTTLESFORD DISTRICT COUNCIL RELATING TO THE
HACKNEY CARRIAGE AND PRIVATE HIRE TRADES**

1. Introduction

- 1.1. The law relating to the hackney carriage and private hire trades is largely contained in 2 statutes, the Town Police Clauses Act 1847 which is exclusively concerned with hackney carriages and the Local Government (Miscellaneous Provisions) Act 1976 which deals with both the hackney carriage and private hire trades. The object of the legislation is to ensure the safety and wellbeing of the public.
- 1.2. The power to regulate the private hire trade under the 1976 Act is adoptive. The Council resolved to adopt those powers in 1992 and has regulated the private hire trade since.
- 1.3. Under the legislation the Council is responsible for licensing hackney carriages and private hire vehicles, drivers of those vehicles and operators of private hire vehicles.
- 1.4. The aim of this policy is to set out the approach the Council will take in dealing with the grant of licences; the Council's conditions and the approach taken with regard to enforcement of conditions and the legislation.

2. Licensing of Drivers

- 2.1. The Council has a duty to grant a driver's licence to anyone who applies for a licence who holds a full driving licence (or is otherwise authorised to drive under the Road Traffic Act 1988) and who has held such a licence or authorisation for at least 12 months. However the Council must not grant a licence unless it is satisfied that the driver is a fit and proper person to hold such a licence.
- 2.2. In determining whether someone is a fit and proper person councils are entitled to have policies. The Council's policy in the form of its Licensing Standards – Drivers is attached as Appendix A. It sets out the standards expected of those who apply for, or hold, licences to drive hackney carriages and/or private hire vehicles.
- 2.3. The policy is not binding upon the Council. However applicants who do not meet all the licensing standards will only be granted a licence if there are good grounds for departing from the Council's policy. The burden of proof is upon the applicant to satisfy the Council that he or she is a fit and proper person.

- 2.4. The fact that someone meets the licensing standards is not a guarantee that a licence will be granted. There may be reasons why an applicant may be considered not to be a fit and proper person even though he or she meets licensing standards. Conversely there will be cases where someone does not meet the licensing standards but nevertheless the Council is satisfied that he or she is a fit and proper person so that a licence can be issued. Each case is decided upon its merits. Where an applicant does not meet the Council's medical standards the application will be considered on a risk basis and a licence may be granted if the Council is satisfied that the applicant will be safe to drive.
- 2.5. Save for drivers who are prepared to accept conditions on their licence that (1) they may not carry passengers (2) they will drive hackney carriages/private hire vehicles only for the purposes of road testing or for the purpose of collecting the same from and returning it to an operator or proprietor before and after the vehicle has been submitted for the purposes of repair, servicing or testing (a "limited licence") all applicants for a driver's licence will be required to have an enhanced Disclosure and Barring Service ("DBS") check at the time of the first application for a licence and thereafter on every 3rd renewal of the licence. Applicants will also be required to undergo a medical at the time of the first application for a licence and generally at every 3rd renewal of the licence although the Council may request medical certificates more frequently if there are reasons to be concerned about a driver's medical fitness to drive.
- 2.6. The Assistant Chief Executive - Legal has delegated authority to grant licences where applicants meet the Council's licensing standards. However there will be occasions when he feels that the decision would be better taken by Members (e.g. the number or nature of spent convictions; police intelligence revealed by the enhanced DBS check; false statements made by an applicant on the application for the licence etc.). In such cases he may refer the application to the Licensing and Environmental Health Committee for determination.
- 2.7. The Assistant Chief Executive - Legal also has delegated authority to refuse licences where applicants do not meet the Council's licensing standards. The Assistant Chief Executive - Legal cannot grant a licence in such cases but if

he considers the circumstances are such that an exception to policy could be made he may refer the application to the Licensing and Environmental Health Committee for determination.

2.8. The Assistant Chief Executive – Legal may refer a driver or operator to the Licensing and Environmental Health Committee at any time to consider the revocation of a licence when in the opinion of the Assistant Chief Executive – Legal there are grounds to consider that the driver or operator may not be a fit and proper person. The Assistant Chief Executive – Legal may take such action notwithstanding the fact that the driver or operator meets the licensing standards set out in Appendix A or Appendix B to this policy.

2.9. Where a decision is taken to grant or refuse an application for a licence which is contrary to the Council's policy clear reasons for that decision will be given.

2.10. Where applications for licences are refused the applicants have a right of appeal against that decision. Details of the appeal procedure will be given to unsuccessful applicants along with the written notice of the decision.

3. Licensing of Operators

3.1. Private hire vehicles are not permitted to ply or stand for hire and must be pre-booked through an operator. Operators are required to be licensed under the 1976 Act.

3.2. The only qualification for a private hire operator is that the Council must be satisfied that he or she is a fit and proper person to hold such a licence. Again the Council has a policy to guide it in its determination as to whether an applicant is a fit and proper person in its Licensing Standards – Operators which is attached as Appendix B.

3.3. The standards for operators are not as strict as for drivers. The policy does not take into account conditional discharges after they are deemed spent (whereas for drivers a conditional discharge will be taken into consideration even if spent for 12 months after the date of sentence) or cautions. This is a pragmatic view as the Council is not entitled to request an enhanced DBS check for operators. Only a standard check is permitted which will not reveal spent convictions or cautions. It is highly unlikely therefore that such matters would come to the attention of the Council. However if such matters were to

come to light the Council could have regard to them in determining whether the applicant was a fit and proper person.

- 3.4. The standards for operators also ignore the applicant's driving record save for convictions for no insurance. This is because the driving record of an operator does not impact upon his or her suitability as an operator of vehicles and drivers. If an operator also wishes to act as a driver he or she would need to obtain a driver's licence and on that application would need to meet the Licensing Standards – Drivers. The exception to this policy is for offences of driving or using a vehicle without insurance. As the operator is primarily responsible for ensuring that vehicles he or she operates are properly insured the Council take a view that a conviction for such an offence goes to the issue as to whether that person can be said to be fit and proper.
- 3.5. In addition to the Licensing Standards – Operators, following the decision in *R. (on the application of Newcastle City Council) v Berwick-upon-Tweed BC* it is the policy of the Council not to licence any operators who do not carry on business predominantly in the District of Uttlesford.
- 3.6. Paragraphs 2.3 – 2.8 above apply to operators' licences in the same way as they apply to driver's licences.

4. Licensing of Vehicles

- 4.1. Unlike licences for drivers and operators (where the Council must grant a licence if certain criteria are met), the grant of a licence for a vehicle is discretionary.
- 4.2. The Council has policies for vehicles which it is prepared to licence – Licensing Standards – Hackney Carriages and Licensing Standards – Private Hire Vehicles which are attached at Appendices C and D. Whilst every case will be determined on its merits it is unlikely that the Council would licence a vehicle which did not meet its Licensing Standards. Where a vehicle proprietor wishes to licence a vehicle which does not meet the standards he or she will be encouraged instead to put forward a case for modification of the Standards. The Council has in the past agreed to modify its standards to permit licensing of vintage cars, stretch limousines, smaller vehicles for school contract use only and Smart Cars.

- 4.3. In addition to the Licensing Standards for Hackney Carriage and Private Hire Vehicles, following the decision in R. (on the application of Newcastle City Council) v Berwick-upon-Tweed BC it is the policy of the Council not to license any hackney carriage which will not be used predominantly in the District of Uttlesford.
- 4.4. Proprietors of vehicles have a right of appeal against a refusal of a vehicle licence. Details of the appeal procedure will be given to unsuccessful applicants with the notice of the decision to refuse the grant of a licence.

5. Conditions

- 5.1. The legislation gives local authorities power to impose conditions on licences for all vehicles, operators and private hire drivers. A copy of the Licence Conditions – Hackney Carriage Vehicles is attached at Appendix E, a copy of the Licensing Conditions – Private Hire Vehicles is attached at Appendix F, a copy of the Licensing Conditions – Drivers is attached at Appendix G and a copy of the conditions for Licence Conditions – Operators is attached at Appendix H.
- 5.2. These conditions do not replicate the legislation. Drivers, operators and proprietors are expected to know the law as it relates to them and observe it. Although not set out in the licensing conditions licence holders should be aware that there are a number of offences which can be committed and will be dealt with in accordance with the Council's policy with regard to enforcement set out at paragraph 6 below. These offences include:-
- 5.2.1. Using unlicensed vehicles
 - 5.2.2. Plying for hire (unless a hackney carriage)
 - 5.2.3. Using unlicensed drivers (for operators and proprietors)
 - 5.2.4. Failing to display the licence plate on the vehicle
 - 5.2.5. Failing to produce a vehicle for inspection when required to do so (for proprietors)
 - 5.2.6. Failing to notify the council that a licensed vehicle has been involved in an accident within 72 hours (for proprietors)
 - 5.2.7. Failing to produce a licence for inspection when requested to do so
 - 5.2.8. Failing to wear a driver's badge

- 5.2.9. Failing to keep records of bookings of private hire vehicles (for operators)
- 5.2.10. Giving the Council false information or omitting to give material information on an application for a licence (including an application to renew)
- 5.2.11. Failing to return a driver's badge upon request on the suspension, revocation or non-renewal of a licence
- 5.2.12. Failing to carry an assistance dog for a disabled passenger without making an extra charge for doing so
- 5.2.13. Overcharging (for hackney carriages)
- 5.2.14. Failure to display no smoking signs in vehicles
- 5.2.15. Smoking in workplace vehicles

6. Enforcement

- 6.1. The Council expects the legislation relating to the hackney carriage and private hire trades and the conditions attached to licences to be observed and will take action in respect of any breaches. Drivers or operators who cease to meet the Council's Licensing Standards are likely to have their licences revoked.
- 6.2. The Council has an enforcement team which has a mission statement "To prevent and detect crime and breaches in regulatory legislation. To achieve compliance by education, negotiation and where necessary by enforcement action."
- 6.3. The enforcement team's role covers a wide spectrum. In addition to the hackney carriage and private hire trades it includes benefit fraud; environmental crime; licensing under the Gambling Act 2005, licensing under the Licensing Act 2003 and planning.
- 6.4. In many of these areas the enforcement team are not dealing with professionals and an explanation of legal obligations (education) is all that is necessary to secure compliance. In other cases (particularly in the field of planning) a negotiated compliance can be achieved.
- 6.5. The Council takes a view that these approaches are generally not suited to the hackney carriage and private hire trades. Whilst council officers are always willing to give general advice and assistance upon request it is not the

role of the Council to provide detailed training to members of the trade. As previously stated, drivers, operators and proprietors are expected to know the law that applies to them and the conditions attached to their licences. Where there is a breach of the law or licence conditions education is not an appropriate option. Equally where there has been a breach by a licence holder a negotiated compliance would not normally be appropriate.

- 6.6. The policy of the Council therefore is that where there is a breach of the legislation or of a condition there should normally be a sanction imposed. A sanction should fulfil 2 functions. It should be punitive to mark the Council's disapproval of the conduct of the licence holder. It should also be a deterrent to the licence holder and others in the trade to prevent such conduct being repeated.
- 6.7. The Assistant Chief Executive - Legal has delegated power to suspend the licence of a driver for up to 14 days where there has been a breach of condition or there has been an allegation of an offence and in the opinion of the Assistant Chief Executive - Legal a prosecution would not be appropriate.
- 6.8. Without detracting from the delegated powers and discretion of the Assistant Chief Executive - Legal it is the policy of the Council that where the matter complained of constitutes an offence under the legislation the offender should usually be the subject of a formal caution or prosecution and that a suspension would only be given as an alternative in exceptional circumstances.
- 6.9. With regard to breaches of condition attached to drivers licences the Council consider that a suspension of the licence is generally an appropriate sanction. The Council notes with concern that prior to the adoption of this policy suspensions did not appear to have had a deterrent effect.
- 6.10. Suspensions will be dealt with in accordance with the Council's Protocol for Dealing with the Suspension, Revocation and Non-Renewal of Driver's Licences which is attached at Appendix I. However without fettering the discretion of the Assistant Chief Executive - Legal or the Licensing and Environmental Health Committee to impose a longer or shorter suspension if the circumstances of a particular case require it the policy of the Council is that the starting point for a suspension for a first case of a breach of condition should be 5 days.

- 6.11. Where a driver has breached a condition on 2 occasions within a 3 year period or has been convicted of an offence (but his licence was not revoked as a result of such conviction) any further breach of condition should be referred to the Licensing and Environmental Health Committee to determine whether it is satisfied that the driver remains a fit and proper person to hold a licence or whether the licence should be revoked. On such a reference the Committee may take no action, suspend the licence or revoke it.
- 6.12. With regard to operators the Council recognises that the suspension of an operator's licence, even for a short period of time, is likely to be disproportionate. It is also likely to impact upon innocent parties as the effect of a suspension of the operator's licence is to deprive the drivers working for that operator of an income for the period of the suspension. The Council's policy is therefore that where an operator has committed an offence a suspension should not be imposed and a prosecution should be brought even for a first offence.
- 6.13. Vehicle licences can be suspended or revoked on the grounds that the vehicle is unfit; that the proprietor has committed an offence under the legislation or for any other reasonable cause.
- 6.14. Vehicle licences will be suspended if they are unfit. If the vehicle is not put back into proper condition then the licence is likely to be revoked.
- 6.15. Without prejudice to the general scope of the power, a vehicle licence may be suspended, revoked or not renewed for any other reasonable cause. Examples include where the Council has evidence to suggest that a hackney carriage is being predominantly used outside of the district or if a private hire vehicle is not being controlled by a licensed operator.
- 6.16. With regard to drivers, operators and proprietors, where a matter has been dealt with through the criminal justice system it is the view of the Council that a suspension of the licence would rarely be suitable. Any punishment which the offender deserved would have been imposed by the courts and a further punishment by way of suspension (which would cause loss of income) would be inappropriate. However the Licensing and Environmental Health Committee should consider whether in the light of a conviction or a caution the driver or operator remains a fit and proper person

to hold a licence. If the Committee is not satisfied that the driver or operator does remain a fit and proper person then the licence should be revoked. For offences committed by proprietors the Committee should consider whether as a result of the conviction the vehicle licence should be revoked for any other reasonable cause.

6.17. Where there is or has been an investigation into the conduct of a driver, operator or proprietor which has not resulted in a formal caution or conviction the licence may nevertheless be suspended, revoked or not renewed if there are reasonable grounds for doing so. The Council is subject to a lower standard of proof (the balance of probabilities) than the criminal courts (beyond reasonable doubt) when dealing with factual issues. Where the fitness of a driver or operator is called into question the burden of proof is upon the licence holder to establish that he or she is a fit and proper person.

7. Accountability

7.1. The Council wishes to be transparent in the application of this policy and in particular with regard to enforcement action taken under it.

7.2. The Assistant Chief Executive – Legal will report on the number of cases in which he has exercised his delegated powers to suspend licences and the outcome in those cases at each meeting of the Licensing and Environmental Health Committee. Generally these reports will be in writing and all reports will be minuted. The reports and minutes will be available on the Council's website. For Data Protection Act and Human Rights Act considerations drivers' names will not appear in these reports.

7.3. Cases dealt with by the Licensing and Environmental Health Committee may be held in private or public. The Committee is subject to the Council's Access to Information Rules which permit the exclusion of the press and public when matters relating to an identifiable individual are discussed. Where the press and public are excluded the officer's reports are not published or otherwise accessible to the public.

7.4. Although the exemption can be applied it should only be used when the public interest in applying the exemption outweighs the public interest in making the information available. The Council's view is that the public have a clear interest in knowing the type of person which it is prepared to license.

Against that however individuals have rights under the Data Protection Act 1998 and individuals and companies have rights under the Human Rights Act 1998. These conflicting interests need to be balanced. In general where information is already in the public domain the cases will be dealt with at a public meeting of the Committee. There will however be cases where the right to privacy is more important than the public interest in knowing the type of person the Council may licence. Examples are where the Committee is considering suspension or revocation of a licence on medical grounds or where publication of the report would involve disclosure of spent convictions or police intelligence. In such cases the press and public will be excluded from the meeting. In such circumstances whilst the report will not be published minutes of the meeting giving details of the case, the decision and the reasons for it will be published but the driver's name will not be given.

7.5. Where a meeting to consider individual cases is held in public the press and public will be excluded under the Access to Information Rules while the Committee considers its decision but will be re-admitted when the decision is announced.

APPENDIX A

LICENSING STANDARDS – DRIVERS

1. No more than 9 points endorsed on a driver's licence within the last 3 years.
2. No convictions or fixed penalty notices endorsed on a driver's licence within the last 3 years where 6 or more points have been endorsed in respect of a single offence.
3. Where a driver has been disqualified from driving for any reason a licence will not normally be granted for 3 years after the disqualification has expired or 12 months after the date the driver's licence is re-issued whichever is the later.
4. For the purposes of paragraph 3 above where a driver has accumulated 12 or more points in a 3 year period but has not been disqualified at the discretion of the court he or she will be deemed to have been disqualified at the date of the hearing when the magistrates exercised their discretion not to disqualify and the deemed disqualification shall be taken as having expired on that date.

And (save for limited licences as referred to in paragraph 2.5 of the policy):-

5. No criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed
6. No criminal convictions within the last 5 years for an offence of dishonesty, indecency or violence in respect of which a non-custodial sentence was imposed
7. No other criminal convictions which are not deemed to be spent within the meaning of the Rehabilitation of Offenders Act 1974.
8. No conditional discharges for any offence within the last 12 months.
9. No official cautions (save for cautions administered by Uttlesford District Council) for any offences within the last 12 months.
10. No pending prosecutions for any criminal or motoring offence.
11. Not to have had a hackney carriage and/or private hire driver's licence revoked within the last 3 years.
12. To meet group 2 medical standards as published by the Department of Transport.

13. To have a reasonable command of the English language sufficient to enable the driver to perform the functions of a hackney carriage/private hire driver

APPENDIX B

LICENSING STANDARDS – OPERATORS

1. No criminal convictions for an offence of dishonesty in respect of which a custodial sentence (including a suspended custodial sentence) was imposed
2. No criminal convictions for an offence of dishonesty in respect of which a non-custodial sentence was imposed or convictions under Part II Local Government (Miscellaneous Provisions) Act 1976 within the last 5 years
3. No other criminal convictions which are not deemed to be spent within the meaning of the Rehabilitation of Offenders Act 1974.
4. No pending prosecution for any criminal offence (other than motoring offences not referred to in paragraph 3 below).
5. Not to have been convicted of or to have accepted a fixed penalty notice in respect of an offence of driving or using a motor vehicle without insurance in the last 3 years.
6. Not to have had a hackney carriage proprietor's licence or private hire operator's licence revoked within the last 3 years.

APPENDIX C

LICENSING STANDARDS – HACKNEY CARRIAGES

- 1 To be less than 12 years old.
- 2 To be safe comfortable and suitable in type size and design for use as a hackney carriage.
- 3 To be a standard right-hand drive car or minibus type vehicle with a minimum of 4 doors.
- 4 To have a rear internal body width of at least 4 foot 3 inches measured from 6 inches below the top of and 6 inches in front of the rear back rest with both rear doors closed.
- 5 To have at least 8½ inches leg room for rear passengers measured from the rear door pillar to the nearest point of the rear seat squab.
- 6 To have all doors capable of being opened from both the inside and outside of the vehicle to an angle of at least 60° or in the case of sliding doors to be capable of providing an open unrestricted minimum width of 2 feet 10 inches.
- 7 To be fitted exclusively with safety glass.
- 8 In the case of estate cars or hatch-back cars to be fitted with a guard rail or other device approved by the council to separate the rear loading from the passengers.
- 9 To be fitted with suitable tyres of the same type and size.
- 10 To carry a suitable spare wheel or manufacturer's approved temporary repair kit or to be fitted with run flat tyres.
- 11 To be fitted with an internal rear-view mirror.
- 12 To be fitted on both sides with external rear-view mirrors.
- 13 To be fitted with an illuminated roof sign bearing the word "TAXI".

APPENDIX D

LICENSING STANDARDS – PRIVATE HIRE VEHICLES

- 1 To be less than 12 years old or (in the case of wheelchair accessible vehicles or vehicles used for school contracts only) less than 20 years old.
- 2 To be safe comfortable and suitable in type size and design for use as a private hire vehicle.
- 3 To be:-
 - a. a standard right-hand drive car or minibus type vehicle with a minimum of 4 doors,
 - b. a wheelchair accessible vehicle with a minimum of 3 doors,
 - c. an extended wheelbase vehicle modified by the manufacturer or by a specialist converter approved by the manufacturer
 - d. a Smart Car.
- 4 To have a rear internal body width of at least 4 foot 3 inches measured from 6 inches below the top of and 6 inches in front of the rear back rest with both rear doors closed.
- 5 To have at least 8½ inches leg room for rear passengers measured from the rear door pillar to the nearest point of the rear seat squab.
- 6 To have all doors capable of being opened from both the inside and outside of the vehicle to an angle of at least 60° or in the case of sliding doors to be capable of providing an open unrestricted minimum width of 2 feet 10 inches.
- 7 To be fitted exclusively with safety glass.
- 8 In the case of estate cars or hatch-back cars to be fitted with a guard rail or other device approved by the council to separate the rear luggage area from the passengers.
- 9 To be fitted with suitable tyres of the same type and size.
- 10 To carry a suitable spare wheel or manufacturer's approved temporary repair kit or to be fitted with run flat tyres.
- 11 To be fitted with an internal rear-view mirror.

12 To be fitted on both sides with external rear-view mirrors.

APPENDIX E

CONDITIONS OF LICENCE – HACKNEY CARRIAGE VEHICLES

Proprietors of the vehicle will:-

- 1 Keep the vehicle in a clean and well maintained condition at all times.
- 2 Produce the vehicle for inspection by officers of the council or by a garage authorised by the council to carry out inspections of hackney carriages when requested to do so.
- 3 Display in the vehicle in a position which is clearly visible to passengers:-
 - 3.1 The number of the licence
 - 3.2 The number of passengers prescribed by the licence
 - 3.3 The Table of Fares currently in operation
 - 3.4 A statement that “complaints should be referred to the proprietor in the first instance and, if necessary, then to the Assistant Chief Executive - Legal, Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex CB11 4ER quoting all the facts including the number of the hackney carriage licence”.
 - 3.5 The name of the proprietor.
- 4 Display at all times the vehicle licence plate provided by the Council in a prominent position at the rear and on the exterior of the vehicle
- 5 Ensure that the roof “TAXI” sign is displayed at all times except when:-
 - 5.1 The vehicle is on hire for a wedding
 - 5.2 Removal of the sign is necessary to enable passenger’s luggage to be carried on a roof rack
 - 5.3 The vehicle is being used by the proprietor for social domestic and pleasure purposes providing the proprietor holds a licence issued by the Council which authorises him or her to drive a hackney carriage
 - 5.4 With the prior written approval of the Assistant Chief Executive – Legal
- 6 Ensure the roof sign is illuminated during the hours of darkness when the vehicle is plying for hire.

- 7 If the vehicle is being driven by any person other than the proprietor, to hold a copy of the driver's hackney carriage driver's licence at all times when that driver is driving the vehicle and to record details of the licence in the register which the proprietor shall keep for that purpose.
- 8 Upon being requested to do so to remove any third party advertising from the interior or exterior of the vehicle which in the opinion of the Assistant Chief Executive - Legal is offensive, harmful to health or unsuitable.
- 9 In the event that a vehicle is more than 5 years old to produce the vehicle to a council authorised tester for inspection at 6 month intervals.
- 10 Ensure that the vehicle is fitted with a taxi meter visible to passengers recording the fare payable in accordance with the Table of Fares which shall from time to time be approved by the council or (if lower) the Table of Fares charged by the driver.
- 11 Notify the Assistant Chief Executive - Legal in writing of any conviction recorded against him or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction.
- 12 Notify the Assistant Chief Executive - Legal in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

APPENDIX F

CONDITIONS OF LICENCE – PRIVATE HIRE VEHICLES

Proprietors of the vehicle will:-

- 1 Keep the vehicle in a clean and well maintained condition at all times.
- 2 Produce the vehicle for inspection by officers of the council or by a garage authorised by the council to carry out inspections of private hire vehicles when requested to do so.
- 3 Display in the vehicle in a position which is clearly visible to passengers:-
 - a. The number of the licence
 - b. The number of passengers prescribed by the licence
 - c. A statement that “complaints should be referred to the proprietor in the first instance and, if necessary, then to the Assistant Chief Executive - Legal, Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex CB11 4ER quoting all the facts including the number of the private hire vehicle licence”.
 - d. The name of the proprietor.
- 4 Display at all times the vehicle licence plate provided by the Council in a prominent position at the rear and on the exterior of the vehicle
- 5 If the vehicle is being driven by any person other than the proprietor, to hold a copy of the driver’s private hire driver’s licence at all times when that driver is driving the vehicle and to record details of the licence in the register which the proprietor shall keep for that purpose.
- 6 Upon being requested to do so to remove any third party advertising from the interior or exterior of the vehicle which in the opinion of the Assistant Chief Executive - Legal of UDC is offensive, harmful to health or unsuitable.
- 7 In the event that a vehicle is more than 5 years old to produce the vehicle to a council authorised tester for inspection at 6 month intervals.
- 8 If the vehicle is more than 12 years old (unless the vehicle was constructed or has been adapted to be accessible for wheelchairs) to use the vehicle for school contracts only

- 9 If the vehicle is an extended wheelbase vehicle to use the same only for private parties, corporate entertainment or other corporate purposes.
- 10 Notify the Assistant Chief Executive - Legal in writing of any conviction recorded against him or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction.
- 11 Notify the Assistant Chief Executive - Legal in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

APPENDIX G

CONDITIONS OF LICENCE – HACKNEY CARRIAGE AND/OR PRIVATE HIRE DRIVERS LICENCES

Drivers will:-

1. Be polite
2. Wear smart clothing
3. Attend to collect pre-booked hirers punctually unless prevented from doing so by some unforeseeable cause
4. Give reasonable assistance to passengers with luggage
5. Not eat or drink in the vehicle during the course of a hiring
6. Not play any radio, tape recorder, CD/DVD player or similar device during the course of a hiring without the hirer's permission
7. Not use equipment of the type referred to in paragraph 6 above so as to cause a nuisance either to passengers in the vehicle or to others
8. Take all reasonable steps to ensure the safety of passengers
9. Not carry more than the number of passengers specified in the licence for the vehicle
10. Not carry any passengers other than the hirer without the hirer's permission
11. Not carry any animals during the course of a hiring other than animals belonging to the hirer
12. Ensure any animals carried in the vehicle are adequately restrained and are kept in such a position so as not to be a distraction to the driver or to cause a danger or nuisance
13. Not to demand from a hirer a fare greater than has previously been agreed with the hirer (applicable to the use of private hire vehicles only – hackney carriage fares are controlled by legislation)
14. Issue written receipts for fares paid when requested to do so
15. Search the vehicle at the end of each hiring for lost property
16. Take reasonable steps to return lost property promptly to its owner and if this cannot be done to report the matter to the police as soon as reasonably practicable and in any event within 24 hours

17. Carry a copy of these conditions at all times when driving a licensed vehicle and produce them for inspection upon request by a hirer, police officer or officer of UDC

18. Notify UDC in writing of:-

- a. Any change of address within 7 days of the change of address occurring
- b. Any change in the driver's physical or mental condition which may affect his or her ability to drive within 48 hours of the driver becoming aware of such change
- c. Any convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the driver's licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice
- d. Any investigations being carried out into the activities of the driver by the police or a regulatory authority of which the driver is aware within 7 days of the driver becoming aware of the investigation
- e. Any damage caused to a licensed vehicle or any accident the driver may have been involved in whilst in charge of a licensed vehicle within 72 hours of the damage or accident occurring

**DRIVERS WHO FAIL TO OBSERVE THESE CONDITIONS MAY HAVE
THEIR LICENCE SUSPENDED OR REVOKED**

APPENDIX H

CONDITIONS OF LICENCE – PRIVATE HIRE OPERATORS

- 1 The operator shall keep a register of all private hire vehicles which the operator operates containing the following information:
 - a. The make and type of vehicle.
 - b. The vehicle registration number.
 - c. The name and address of the owner of the vehicle.
 - d. The private hire licence number.

- 2 The operator shall keep a record of every booking of a private hire vehicle invited or accepted on behalf of the operator including:
 - a. The time and date of the hiring.
 - b. The name of the hirer.
 - c. The name of the driver.
 - d. The start and end points of the journey.
 - e. The fare paid.
 - f. The private hire licence number of the vehicle.

- 3 The register and records referred to in paragraphs 1 and 2 above shall be kept in either paper format or electronically in a format which permits immediate inspection in response to a request made under section 56(3) Local Government (Miscellaneous Provisions) Act 1976 and in the case of records kept in an electronic format, must be capable of printed onto paper forthwith.

- 4 Records required by these conditions must be retained for at least one year.

- 5 Forthwith upon being requested to do so by any authorised officer of the council to provide a printed copy of any electronic records kept by the operator in accordance with these conditions.
- 6 The operator must notify the Assistant Chief Executive – Legal of the council in writing within 7 days of:
 - a. Any conviction, fixed penalty notice (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the driver's licence) or Police caution.
 - b. Any change of his or her residential address.
 - c. Any change of his or her business address.
 - d. Any additional addresses within or outside of the district from which the operator intends to carry on the business as a licensed private hire vehicle operator during the continuation of the licence.
- 7 The operator shall provide a prompt and efficient service to members of the public and in particular:
 - a. Ensure that unless delayed or prevented by some cause outside the control of the operator, vehicles attend appointments punctually.
 - b. Any premises to which the public has access for the purposes of booking or waiting are clean, adequately heated, adequately ventilated and well lit.
 - c. Ensure that any waiting area has adequate seating facilities.
- 8 The operator shall notify the Assistant Chief Executive – Legal of Uttlesford District Council of any complaints made against the operator or any driver used by the operator within two working days of receipt of the complaint.

APPENDIX I

PROTOCOL FOR DEALING WITH THE SUSPENSION, REVOCATION AND NON-RENEWAL OF DRIVERS' LICENCES

Introduction

Uttlesford District Council licenses drivers of hackney carriages under Section 46 Town or Police Clauses Act 1847 and also licenses private hire vehicle drivers under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976. Under Section 61 of the 1976 Act both hackney carriage and private hire vehicle driver's licences may be suspended or revoked or the local authority may refuse to renew the same on the grounds that since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence or has been convicted of an offence under or has failed to comply with the provisions of either the 1847 Act or the 1976 Act. A licence may also be revoked or suspended or may not be renewed for any other reasonable cause.

Any other reasonable cause

This expression is not defined in the legislation. However, it is not limited to matters which arose after the grant of the licence. Examples of what may be considered 'any other reasonable cause' would include (but are not limited to):

- Where information comes to light which suggests that had the information been known at the time of application, a licence would not have been granted or renewed.
- Where a driver ceases to meet the council's licensing standards.
- Where the driver has breached a condition of his or her driver's or vehicle licence.
- Where the driver has committed a minor offence for which he or she is not prosecuted.
- Where information comes to light which suggests that the driver may no longer be a fit and proper person to hold a licence.

Appeals

Whenever a decision is taken to suspend, revoke or not to renew a licence or where conditions are imposed upon a private hire vehicle driver's licence that the driver is not satisfied with there is a right of appeal to the magistrates' court. Normally a decision to suspend, revoke or not to renew a licence takes effect 21 days after the driver has been given notice of the decision. The driver may continue to drive during that period and if he or she lodges an appeal within that time may continue to drive until such time as the appeal has been disposed of or has been abandoned. However when a licence is suspended or revoked and it appears to the council that the interests of public safety require the suspension or revocation to have immediate effect and notifies the driver accordingly, then whilst the driver may still appeal, he or she may not drive once he or she has been notified of the decision.

Delegated Powers

The Assistant Chief Executive - Legal and those authorised by him have delegated powers to deal with certain types of case. These are as follows:

1. When the Assistant Chief Executive - Legal believes that a licence should be suspended with immediate effect on grounds of public safety he may do so. The Assistant Chief Executive - Legal will arrange for a special meeting of the Licensing and Environmental Health Committee to be convened as soon as is reasonably practicable for the purpose of determining whether the suspension should be confirmed or the licence revoked.
2. The council has a policy of granting or renewing licences in some circumstances where the driver provides a statutory declaration as to his or her character pending receipt of a clear Criminal Records Bureau check. If upon receipt of the DBS check it transpires that the applicant has made a false declaration the Assistant Chief Executive - Legal has power to revoke the licence.
3. The Assistant Chief Executive - Legal also has power to suspend licences for up to 14 days where there has been a breach of condition or where in his or her view a prosecution would be disproportionate.

Any other decisions concerning the revocation, suspension or non-renewal of a driver's licence must be referred to the Licensing Committee. In addition, the Assistant Chief Executive - Legal may refer cases at his discretion to the Committee instead of dealing with them under his delegated powers.

Procedure – Decisions under delegated powers

Where the Assistant Chief Executive - Legal is considering exercising his delegated powers the following procedure will apply:

1. The Assistant Chief Executive - Legal or those authorised by him will write to the driver requesting that he or she make an appointment to meet with the Assistant Chief Executive - Legal. The letter will contain the following:
 - a. Details of the allegations which have been made against the driver or other matters which may lead to the suspension of his licence.
 - b. A statement that the Assistant Chief Executive - Legal may consider suspending the driver's licence for up to 14 days.
 - c. A statement that the driver may be accompanied by his or her operator, a trade union representative or a friend.
 - d. A statement that in the event that the Assistant Chief Executive - Legal decides to suspend the licence that there is a right of appeal.
2. The meeting between the Assistant Chief Executive - Legal and the driver and his or her representative (if present) shall take the form of a discussion within which the Assistant Chief Executive - Legal will seek the driver's comments upon the allegations made against him or her. If the Assistant Chief Executive - Legal considers it necessary to make further enquiries he will explain this to the driver and adjourn the meeting to enable such enquiries to

be made. In the event that following such enquiries the Assistant Chief Executive - Legal decides that no further action is required (or that the only action which may be required is that which has been discussed with the driver at the meeting) then the Assistant Chief Executive - Legal will write to the driver accordingly. In any other case the Assistant Chief Executive - Legal will reconvene the meeting.

3. At the conclusion of the meeting or any adjournment thereof, the Assistant Chief Executive - Legal will inform the driver whether or not he considers the allegations have been made out and in the latter event what sanction (being a suspension of not more than 14 days) the Assistant Chief Executive – Legal intends to impose.
4. In the event the Assistant Chief Executive - Legal decides that the licence should be suspended the Assistant Chief Executive - Legal will inform the driver of his or her right of appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
5. As soon as is reasonably practicable after the meeting the Assistant Chief Executive - Legal will notify members of the Licensing and Environmental Health Committee of the suspension by e-mail and write to the driver
 - a. Confirming the decision
 - b. Confirming the sanction.
 - c. Giving reasons for a. and b. above.
 - d. Giving details of the appeal procedure and the fee payable to the court on appeal.
 - e. Unless the suspension is taking immediate effect on the grounds of public safety, informing the driver of his or her right to drive during the period within which an appeal may be lodged, if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

Procedure - Decisions by the Licensing Committee

Where a decision would fall outside of the delegated powers of the Assistant Chief Executive - Legal or where the Assistant Chief Executive - Legal considers that his delegated powers would not be sufficient to deal with an allegation or that for other reasons the decision should be taken by members, then the matter will be determined by the Licensing and Environmental Health Committee and the following procedures will apply:

1. At least 4 members of the Licensing and Environmental Health Committee will be requested to attend a meeting of the Committee for the purpose of considering the allegations.
2. Usually, the committee meetings will be held in public although consideration of matters which would not otherwise be in the public domain (e.g. consideration of a driver's medical condition, details of spent convictions etc.) would require the committee meeting to be held in private.
3. The driver will be given written notice of the time and date of the committee meeting at least 10 working days prior to the meeting taking place and at the same time will be provided with a copy of the officer's report which will be presented to the committee along with any supporting documents.
4. The letter notifying the driver of the time and date of the meeting shall also inform him or her of his or her right to be represented at the meeting by his or her operator, a trade union representative or a friend.
5. Having considered the officer's report, any evidence which the officer wishes to tender in support of his report (which shall have been disclosed in advance to the driver), any evidence from the driver, any evidence from witnesses called by or on behalf of the driver and any submissions made by the driver and/or his or her representative, the committee will retire to consider its decision and will upon returning announce its decision to the driver.

6. The committee shall give verbal reasons for its decision and in the event that the committee decide to suspend, revoke or not to renew a licence the lead officer of the committee shall explain to the driver his or her right to appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.

7. As soon as is reasonably practicable after the committee meeting, the lead officer to the committee shall write to the driver confirming
 - a. the committee's decision
 - b. any sanction imposed.
 - c. the committee's reasons for a. and b. above.
 - d. Giving details of the appeal procedure and the fee payable to the court on appeal.
 - e. Unless the suspension is taking immediate effect on the grounds of public safety, informing the driver of his or her right to drive during the period within which an appeal may be lodged, if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

Principles to be applied in decision making

The express aims of the licensing regime are the safety and comfort of the public. Safety extends not only to fare paying passengers but also to other road users and pedestrians. When considering the grant of a licence a local authority may not grant a licence to anyone unless they are satisfied that the applicant is a fit and proper person to hold a licence. When an applicant for a licence does not meet the Council's licensing standards he or she would not normally be deemed to be a fit and proper person and the Assistant Chief Executive – Legal has delegated power to refuse the application. Where the Assistant Chief Executive – Legal considers that there may be grounds to find that an applicant is a fit and proper person notwithstanding the fact that the applicant does not meet licensing standards then he

may refer the application to the Licensing and Environmental Health Committee. Factors which will be taken into account by the Assistant Chief Executive – Legal in deciding whether to refer a case to the Committee and to be taken into account by the Committee when determining the application are:-

1. The nature of the offence
2. The severity of the offence
3. The length or severity of the sentence
4. The passage of time since conviction

Where the committee cease to be satisfied for any reason that a driver is a fit and proper person it follows that he or she should not be in possession of a licence and in those circumstances the licence will either be revoked or not renewed on application. There will however be other circumstances where there has been some action or inaction on the part of a driver which has not rendered the driver an unfit person but nevertheless warrants a sanction both as a mark of disapproval of the driver's conduct and as a deterrent to others. In such circumstances, a suspension of the licence would be appropriate. The Council' policy is that the starting point for a suspension should be 5 days. However each case will be determined on its merits. In determining whether to suspend a licence and if so in determining the length of suspension, regard will be had by the Licensing and Environmental Health Committee or by the Assistant Chief Executive - Legal in the exercise of delegated powers to the following factors:

1. Whether the driver fully admitted the matter alleged or whether he or she put forward explanations which were wholly unsustainable.
2. The seriousness of the matter complained of.
3. The driver's past history.
4. Whether the driver has suffered any other penalty in respect of the matters complained of.
5. Any aggravating factors

6. Any mitigation put forward by the driver or his or her representative.
7. The financial effect of any suspension upon the driver acknowledging that he or she will not be able to earn an income from driving during the period of any suspension.