



Uttlesford District Council

Chief Executive: Dawn French

Licensing and Environmental Health Committee

Date: Tuesday, 27th November, 2018

Time: 7.30 pm

Venue: Council Chamber - Council Offices, London Road, Saffron Walden,
CB11 4ER

Chairman: Councillor R Chambers

Members: Councillors A Anjum, G Barker, J Davey, M Foley, A Gerard,
T Goddard (Vice-Chair), J Gordon, E Hicks and S Morris

Substitutes: Councillors H Asker, J Freeman, R Freeman, D Jones and
J Loughlin

AGENDA PART 1

Open to Public and Press

1 Apologies for Absence and Declarations of Interest

To receive any apologies for absence and declarations of interest.

2 Review of Uttlesford District Council's Taxi Licensing Policies 3 - 66

To consider the review of Uttlesford District Council's taxi licensing policies.

For information about this meeting please contact Democratic Services

Telephone: 01799 510369 or 510548

Email: Committee@uttlesford.gov.uk

General Enquiries

Council Offices, London Road, Saffron Walden, CB11 4ER

Telephone: 01799 510510

Fax: 01799 510550

Email: uconnect@uttlesford.gov.uk

Website: www.uttlesford.gov.uk

Agenda Item 2

Committee:	Licensing and Environmental Health	Date:	27 November 2018
Title:	Review of Uttlesford District Council's Taxi Licensing Policies		
Report Author:	Oliver Rawlings, Licensing Consultant (EHDC Service Manager – Licensing & Enforcement)	Item for decision:	Yes

Summary

1. To inform the Committee of the proposed changes to UDC Taxi Licensing Policies and seek endorsement of draft documents for consultation.

Recommendations

2. For the Committee to note and comment upon the proposal for the introduction of training and testing for new applicants for both Private Hire and Combined (Private Hire and Hackney Carriage) drivers licences.
3. For the Committee to note and comment upon the proposal for the introduction of an Update Course for existing licensed drivers at renewal.
4. For the Committee to note and comment upon the proposal for the introduction of a Suitability Policy for applicants in the Hackney Carriage and Private Hire Trade.
5. For the Committee to note and comment upon the proposal for the introduction of a driving proficiency test for all new applicants for both Private Hire and Combined (Private Hire and Hackney Carriage) drivers licences.
6. For the Committee to note and comment upon the proposal for the introduction of a new vehicle age & emissions policy which will apply to all licensed vehicles.
7. For the Committee to note and comment upon the proposal for revised driver, vehicle and operator licence conditions to be introduced.
8. That the above draft documents be endorsed for an 8 week consultation with the trade and public.

Financial Implications

9. There are no financial implications as the implementation and operation of the taxi licensing regime operates on a cost recovery basis.

Background Papers

10. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

- Taxi and Private Hire Licensing: Best Practice Guidance from the Department for Transport (March 2010)
- Law Commission in its report on Taxi and Private Hire Services
- Local Government (Miscellaneous Provisions) Act 1976
- Institute of Licensing, Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade.

Impact

11.

Communication/Consultation	Consultation will take place with trade, drivers, operators and other relevant stakeholders for an 8 week period. Local press, social media, website, meetings and invitation for direct comment will be used as appropriate.
Community Safety	The authority has a duty only to licence drivers and operators who are considered to be fit and proper.
Equalities	The Council ensures that it treats all individuals and organisations that are renewing or making new applications for licences with equal respect both during the licensing approval / renewal process and in such instances where enforcement action becomes necessary.
Health and Safety	No impact on employee health and safety
Human Rights/Legal Implications	Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply: Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest. Article 6 – That in the determination of civil

	<p>rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.</p> <p>2. The Local Government (Miscellaneous Provisions) Act 1976, allows a Local Authority to determine the suitability of an applicant for the grant of taxi and private hire vehicle Licenses and to request such information as it considers reasonably necessary from the applicant in order to determine if a licence should be granted/revoked.</p>
Sustainability	No issues arising
Ward-specific impacts	All
Workforce/Workplace	No issues arising

Situation

12. Uttlesford District Council, as an authority that issues hackney carriage and private hire drivers licences, can set its own criteria to ensure that applicants are 'fit and proper' to hold a licence. The overriding factor is that of the protection and wellbeing of the public using Hackney Carriage and Private Hire Services. As such the authority currently requires all applicants to pass a medical, have their DVLA licence checked and have an enhanced criminal record check. All drivers are also subject to right to work checks which is a legislative requirement.
13. The current UDC policy and application criteria were last revised in April 2016. The authority took the decision in 2017 to review the policy, and in particular the application criteria as it believed that there were matters relating to public safety that were not being adequately addressed. In particular, the issues with child sexual exploitation and safeguarding that have been very publicly identified in other parts of the country.
14. Outside of the application criteria no training is offered to, or required of, either new applicants or renewing drivers.

15. New driver training and testing

16. To address these concerns and help ensure that drivers are 'fit and proper' and protect the public it is proposed that:

- New applicants for driver's licences attend a full day's training course to include training in customer service, driver safety, relevant legislation, disability awareness, safeguarding and other key information required to be a competent and safe driver.

17. The training day will include a test of that knowledge for both dual/combined driver and private hire driver applicants. Applicants for dual/combined driver licences will be subject to an additional geographic test of their knowledge of the District as they are available for immediate hire.

18. Applicants will be provided with access to a comprehensive handbook at the time of booking onto the course as a study aid prior to the course and a quick reference guide to keep once they are licensed. The content the handbook will only be finalised once decisions have been made regarding the proposals in this report.

19. Training prior to a competency test is common place in many spheres of work, a notable example being training for holders of personal licences. It is a requirement of the Licensing Act 2003 that holders of a personal licence will have a formal qualification. Likewise, the Security Industry Authority requires new security staff to have formal, accredited training. There is no intention to accredit driver training yet but this could be a possibility in the future.

20. It is anticipated that a period of focused training prior to the examination will instil in new applicants a genuine understanding of the principles behind the regulations leading them to be able to make informed decisions from the very start of their careers.

21. It is important that new entrants to the trade are able to provide a safe and effective service to people with disabilities, who often rely on licensed vehicles as their primary form of transport. This was recognised by the Law Commission in its report on Taxi and Private Hire Services which said:

One of our key provisional proposals to promote equality and accessibility was that private hire and taxi drivers should be required to undergo recognised disability awareness training. This received unanimous support, and statistics published by the Department for Transport show that it is far from a universal requirement in current local licensing conditions. Lack of such training means that some drivers may be less likely to be aware of the needs and rights of disabled passengers; this can contribute to unacceptable practices, for example ignoring their attempts to hail a vehicle, carrying them

in an unsafe manner, refusing to carry them at all or charging extra for the service.¹

22. Many other local authorities already require applicants to arrange, at their own cost, training in disability awareness. The average cost to the driver of that training would be £35.00. By delivering disability awareness training in house as part of the proposed driver training UDC can negate the need for an externally provided course and ensure it is delivered to an acceptable standard.

23. The proposal is that Watford Borough Council, who already provided similar courses to their own drivers and a number of other local authorities, are contracted to supply bespoke training to new applicants for drivers licences issued by Uttlesford District Council.

24. Watford Borough Council will provide trainers that have wide experience of licensing and enforcement of taxis. This is considered a key factor in the success of the courses delivered elsewhere as it means that questions outside of the scope of the training can be answered and practical examples of real life situations can be drawn upon. All the content is tailored specifically to the licensed taxi trade rather than delivering generic training where attendees may not see how it directly applies to them and their work.

25. As stated above all applicants would receive the same training however the testing would differ slightly in that applicants for a private hire drivers licence would not have to sit a geographical knowledge test. All the other tested elements would remain the same:

- Rules and regulations
- Highway code
- Basic arithmetic

26. The questions would be a mix of multiple choice and written answers allowing the authority to assess the ability of candidates to understand and write written English. Similarly the training requires applicants to interact with each other and the trainer which will be a test of their ability to speak and understand spoken English.

27. The cost to the applicant of the training would be:

- £105.00 for an applicant for a combined Hackney Carriage/Private Hire Drivers licence (retest £30.00)
- £95.00 for an applicant for a Private Hire Drivers licence (retest £20.00)

The difference in the individual costs reflects the additional routes test for those applicants wishing to drive a Hackney Carriage. This fee would be subject to an additional amount for the hire of a venue.

¹ Taxi and Private Hire Services, Law Com LC437 (2014), para 1.41
(http://www.lawcom.gov.uk/app/uploads/2015/03/lc347_taxi-and-private-hire-services.pdf)

28. Within this cost Watford Borough Council will provide a system for booking onto the course, the training materials and testing, applicants and UDC and applicants will be notified of test results within 48 hours.
29. When considering how frequently the training days should be held the number of new driver applications received over the last 12 months was used as a base figure (782 in the last 12 months). The number of applications has been increasing year-on-year so the assumption has been made that this number will increase again. Working from an expected 800 applications in the next financial year this would require a training day every week with an average attendance of 15 candidates.
30. The training course has proved most successful in other areas when the number of attendees has been capped at 16. This allows candidates to get the most from the day and fits well with having weekly training days. Those that fail any part of the testing would be able to book a resit the next week (if spaces were available).
31. The authority has been looking at a number of venues for holding the training events so that an indicative cost can be calculated. Until a decision is made regarding the imposition of training and testing for new applicants a venue or venues cannot be secured. However, suitable venues are currently available at a cost of between £5.00 and £10.00 per candidate (based on 15 attendees) and this figure would need to be paid in addition to the training cost detailed above.
32. The training and testing can clearly have a positive impact on public safety but it is also designed to benefit people that are new to the trade as can be seen by the break down in the proposed content of the training at **Appendix A** to this report.
33. Update course for existing licensed drivers at renewal
34. UDC currently licences in excess of 2000 drivers who drive licensed vehicles both within the District and far beyond its boundary. Previously the authority has not imposed a requirement for any training on new applicants so the majority of these drivers have not received any training in the areas proposed for new applicants for licences. As such the authority is proposing to introduce an update course for as a requirement of renewing a driver's licence.
35. The proposal for drivers seeking to renew their licences is that they would attend a separate update course before their renewal date which would contain all of the above information and training but would not include the tests. Without the cost of the tests and associated administration the indicative cost per applicant for the update course would be £75.00 (plus the addition of the cost of the venue as detailed in paragraph 30 above).

36. The update course is proposed to start later in 2019 meaning that drivers renewing a licence after that time will be required to attend the course. This will allow for a number of training events for new applicants to have been held and the final update program to be fine-tuned to meet the needs Uttlesford's licensed taxi trade.
37. Driver's licences renew on a three yearly cycle so drivers would be required to attend a course for each future renewal. The authority would update the training regularly so that it is always relevant and keeps up with changes in legislation, emerging issues, best practice, etc.
38. With the high volume of driver renewal applications expected in 2019 the imposition of the requirement to have completed the update course by the date of renewal is logistically challenging for the authority. Based on the likely number of renewals there would be a need for two update courses to be run per week as a minimum. As the renewals are not evenly spread throughout the year this would need to be reflected in how the courses are scheduled.
39. How the authority will operate the update course in practice is an internal matter that has yet to be decided but it was felt that early engagement with the trade regarding the proposal to introduce an update course is key to its success hence its inclusion in this report.
40. During consultations and interactions with the taxi trade over the last couple of years it is clear that the trade want to maintain and improve standards. If the new training days and update course are put in place feedback will be sought from the trade to ensure the content not only meets the council's requirements but the needs of the licensed trade.
41. Suitability policy for the Hackney Carriage and Private Hire Trade
42. The Suitability Policy is intended to replace sections of the current policy and standards as it relates to drivers, vehicle proprietors and operators. The draft policy recognises the different roles that drivers, proprietors and operators have and takes this into consideration with regards to the relevance of each offence.
43. Since the initial drafting of a Suitability Policy for UDC the Institute of Licensing (IoL), in February 2018, issued 'Draft guidance on determining suitability of applicants and licensees in the hackney and private hire trade'. The main differences between the policies were the grouping or listing of offence types and some of the lengths of time that offences would preclude an applicant from holding a licence, bearing in mind, each application must be considered on its own merits, and the way in which offences are grouped.
44. The Suitability Policy at **Appendix B** is a new draft which has taken into consideration the IoL Guidance, the originally drafted policy and best practice. Ultimately it is for the authority to decide, having taken into account any

comments received during the consultation, what time periods should apply to each category of offence.

45. UDC has historically had criteria for the consideration of drivers and operators. The trade have expressed concerns regarding the clarity of the existing policy and in particular the section stating that applicants must never have had a custodial sentence. This is addressed in the proposed policy as it makes it clear that different offences are given different weight taking into account the seriousness and relevance of the offence, the penalty imposed and the length of time since that conviction/s.

46. The policy combined with amendments to the standards and conditions would mean the following changes would be introduced:

- Clearer criteria for driver applications;
- Checking of the suitability of vehicle proprietors with clear criteria;
- Increased checks on operators suitability with clear criteria;
- A requirement for operator's to carry out checks on their employees to the same standard as are carried out on the operator themselves.

47. Some of the content of the Suitability Policy is based on the proposition that the other recommendations in this report will be introduced, for example a Driving Assessment or the adoption of the proposed operator conditions. This is not an attempt to predetermine the decision and disregard any consultation responses but is an illustration of the type of document that is recommended and demonstrates how policy and standards interlink. The suitability policy can be amended to reflect any changes that have been recommended in this report but which are not subsequently adopted following consultation.

48. As part of the changes it would be beneficial to clarify where the decision making regarding suitability would sit. Given that all Local Authorities are facing funding gaps many have delegated more powers to officers, often in consultation with a Member, to save the time and expense of Committee meetings and help to expedite matters for the individual that is subject to the questions over fitness and propriety. It is suggested that decision making under the suitability policy is delegated to officer level, Environmental Health Manager (Commercial), in consultation with the Chair of the Licensing and Environmental Health Committee. In the absence of the Environmental Health Manager (Commercial) the decision could be taken by a more senior officer and in the absence of the Chair it is suggested that this should sit with the Vice-Chair (or in their absence 3 members of the committee).

49. The suitability policy if approved would replace Appendix A of the current handbook 'Licensing Standards – Drivers' except for the requirement to meet the Group 2 medical standard and to have a reasonable command of the English Language.

50. Driving Proficiency.

51. The Department for Transport (DfT) Best practice guidance states at point 70:

Many local authorities rely on the standard car driving licence as evidence of driving proficiency. Others require some further driving test to be taken. Local authorities will want to consider carefully whether this produces benefits which are commensurate with the costs involved for would-be drivers, the costs being in terms of both money and broader obstacles to entry to the trade. However, they will note that the Driving Standards Agency provides a driving assessment specifically designed for taxis.

52. It is reasonable to expect professional drivers to exhibit and maintain good standards of driving and the requirement to pass an additional test would not be considered a barrier to entry to the trade. It is suggested that passing a driving test which is equivalent to the now defunct DSA test mentioned in the DfT guidance be a requirement of every new applicant.

53. There are increasing numbers of companies which offer these bespoke taxi driving tests. If the imposition of a driving proficiency test is ultimately approved UDC would seek to nominate a number of providers, including at least one national provider, so that applicants are able to take the test locally to where they are resident. This will allow applicants to shop around for a convenient date and time and will minimise delays between booking and actually taking the test so that applications are not unduly delayed.

54. As there is no expiry date on pass certificates UDC should be willing to accept pass certificates previously obtained for another authority if it was issued by one of UDC's approved providers, or meets the same criteria, and can be verified as genuine.

55. UDC may wish to set a limitation to the age of certificate that they are willing to accept. It is suggested that if a new applicant has not taken their DVLA driving test or passed the council approved driving test (or equivalent) within the last ten years then they will be required to take and pass the council approved driving test before any driver licence application is granted.

56. The approval of such a test links in with the Draft Suitability Policy which is part of this report. Licensed drivers that are given a prescribed number of points on their DVLA licence would be required to pass the council approved driving test within a fixed time period or face suspension.

57. The introduction of this measure would promote public safety as it will ensure that new applicants, however recently or long ago they passed their DVLA driving test, or in whichever country they took their test, are proficient enough to drive the public safely. Equally where an existing licensed drivers driving proficiency is brought into question the objective test can be applied and answer that question.

58. In October 2018 the average cost for such a test was £85.00. The cost of the test and any retests would be paid by the applicant or existing driver directly to the provider. UDC would be able to check the validity of the pass certificate directly with the test providers

59. In paragraph 2.1 of the current handbook it states that applicants must have held a full driving licence for a minimum period of 12 months. This is the minimum time period laid down in the legislation but most authorities have increased the period that an applicant must have held a driving licence before they can drive a licensed vehicle to between 3 and 5 years. This can have a positive impact on public safety as the driver will have more driving experience and will have had more opportunity to experience the whole variety of driving conditions.

60. It is proposed that in addition to requiring new applicants to pass the approved driving test the policy be changed so that applicants must be over the age of 21 and have held a full UK driving licence (or equivalent) for a minimum of 3 years at the time of application.

61. Vehicle Age and Emissions Policy

62. The UDC has previously created a policy in relation to the age of vehicles which can be licensed as Hackney Carriages or Private Hire Vehicles. The current policy states:

- *Hackney Carriages to be less than 12 years old.*
- *Private Hire vehicles 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.*

63. The current UDC policy does not detail on what grounds a vehicle would be allowed to remain licensed beyond these upper age limits. There are a number of licensed vehicles that go beyond the maximum 12 year old upper age limit. The figures below show the age of the 2156 vehicles that were currently licensed on 17th October 2018:

Dates vehicles registered	Number of vehicles licensed
2001	1
2002	6
2003	8
2004	22
2005	34
2006	71
2007	84
2008	73
2009	69
2010	93
January 2011- August 2015	333*
September 2015 - present	1362**

*Meets or exceeds Euro 5 emissions standard

**Meets or exceeds Euro 6 emission standard

64. The principle of placing an age limit on licensed vehicles is perfectly acceptable. The purpose of such policy is to try and ensure that the taxi fleet is as safe, reliable and comfortable as possible.

65. The DfT Best Practice guidance states:

It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.

66. The setting of a policy would only be 'arbitrary and inappropriate' if the authority failed to consider applications outside of the policy on their individual merits. It is considered helpful to prospective and existing vehicle proprietors if the details of what would be considered as an exception from the policy were published. Therefore 'Exceptional Condition Criteria' have been included in the draft policy. Where an exception to the policy is requested then the suggested process to be followed would be that the vehicle and supporting documents are inspected by either an enforcement officer or a licensing officer and then if they confirm it passes the visual inspection and documentation check it is sent to an approved garage for mechanical inspection. A fee would need to be calculated to cover the cost of the new inspections to check that the exceptional condition criteria are met.

67. There were a number of questions raised by the existing policy. The two types of vehicle licence issued are treated differently however they can carry out the same type of work, transporting the public. The current age limit is in place to ensure public safety but the reasons why the age limit for a private hire vehicle is extended when it is carrying a child or a person in a wheelchair are not clear. It is clear however that the authority wishes to have as many wheelchair accessible vehicles in the fleet as possible but there is little evidence that this age allowance has worked in promoting the numbers of this type of vehicle.

68. When considering age policies the DfT guidance also states:

Local licensing authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test.

69. The DfT goes further by mentioning Environmental Considerations:

Local licensing authorities, in discussion with those responsible for environmental health issues, will wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the local authority may have adopted. This will be of particular importance in designated Air Quality Management Areas (AQMAs), Local authorities may,

for example, wish to consider setting vehicle emissions standards for taxis and PHVs. However, local authorities would need to carefully and thoroughly assess the impact of introducing such a policy; for example, the effect on the supply of taxis and PHVs in the area would be an important consideration in deciding the standards, if any, to be set. They should also bear in mind the need to ensure that the benefits of any policies outweigh the costs (in whatever form).

70. Uttlesford District Council has already identified the need to engage with the taxi trade in their Air Quality Management Area (AQMA) Action Plan which has been before Cabinet. The action plan raises the point that the taxi trade could make an important contribution to improving air quality and details a number of options that should be investigated.

71. As such it is deemed appropriate to include criteria regarding emissions by creating a 'Vehicle Age and Emissions Policy'.

72. When considering the emission levels that should be set the following factors were considered:

- *Euro 5 (introduced 1st January 2011) is preferably the minimum standard as this was the first time particulate filters became mandatory for diesel and it saw a significant improvement over Euro 4.*
- *The Euro 6 standard was introduced in September 2015, and (with a small exception) all mass-produced cars sold from this date needed to meet these emissions requirements. The aim of Euro 6 is to reduce levels of harmful car and van exhaust emissions, both in petrol and diesel cars, and it is a reflection of the different kind of pollutants the two fuels produce.*

73. The figures at paragraph 63 indicate the following:

- 461 vehicles do not meet the Euro 5 emissions standard (21% approximately)
- 794 vehicles (including those detailed above) do not meet the Euro 6 emissions standard (37% approximately)
- 1362 vehicles meet or exceed the Euro 6 emissions standard (63% approximately)

There may be more vehicles that meet or exceed Euro 5 or 6 emissions standards as some manufacturers introduced the higher standards before it was legally required. The figures above are indicative of the likely emission standards of the currently licensed vehicles. Proprietors with older vehicles will be able to demonstrate which standard their vehicle meets through reference to the individual manufacturer.

74. A draft Vehicle Age and Emissions Policy is attached to this report as **Appendix C**. In summary the changes are:

- Vehicles will need to meet both age and emissions criteria at first application and at renewal

- New maximum age criteria for vehicles at first application and at renewal
- Vehicles being licensed as Hackney Carriages or Private Hire Vehicles must meet the same criteria
- Inclusion of 'Exceptional Condition Criteria' which allows exceptions to the age policy

75. Officers have taken into account the DfT guidance and it is believed that the imposition of the suggested emissions standards would have little or no impact on the supply of vehicles within the Uttlesford District but could make a positive contribution to tackling air pollution.

76. The cost of compliance with this policy to the licensed trade has also been considered with the following points being made:

- the Euro 5 emissions standard came in effect in January 2011 so vehicles manufactured after this date can still be licensed for the first time until 1st April 2020 (diesel vehicles 1st April 2019)
- from 1st April 2019 for diesel vehicles (1st April 2020 for other vehicles) only vehicles meeting the Euro 6 emissions standard which came in effect in September 2015 will be able to be licensed for the first time
- if an older vehicle fails the emissions part of the policy then it is open to the proprietor to have the vehicle adapted/modified to meet the standard or change to a cleaner fuel rather than going to the expense of changing the vehicle.

77. The suggested changes in relation to emissions should have minimal impact on people wishing to enter the trade and licence their own vehicle. All vehicles manufactured in the last five years have been required by legislation to meet or exceed the Euro 5 emissions standard so will meet the proposed emissions criteria.

78. Similarly the requirement for vehicles to meet or exceed Euro 5 emissions standards at renewal from the 1st April 2020 should not impact the existing licensed trade financially. A maximum of 461 of the 2156 vehicles licensed at the time of writing the report do not meet or exceed Euro 5. These vehicles can be replaced by vehicles up to five years old, which will offer the proprietor a significant saving over having to buy a brand new vehicle, or the existing vehicle could be modified to comply with the emissions standards within the policy. If a vehicle over 10 years old was modified to comply with emissions standards and met the exceptional condition criteria then that vehicle licence could be granted for the first time or renewed.

79. It is recognised that licensed vehicles can significantly contribute to poor air quality for a number of reasons:

- the ranks are located in our Town Centres;
- a significant part of their day-to-day work can be short urban journeys which generate more emissions due to their nature;

- the older vehicles that some proprietors licence are not equipped with 'start, stop' technology so spend a significant amount of time idling.

The contribution in terms of emissions that licensed vehicles make to AQMAs would be reduced by 2020 if the draft emissions policy were approved in its current form. There would also be an implication for air quality in other areas outside of the District where a large number of Uttlesford licensed vehicles work but this would be difficult to quantify.

80. It is believed that the draft age and emissions policy will have the following benefits should it ultimately be approved:

- an increase in public safety;
- clearer guidelines for those seeking to licence a vehicle with Uttlesford District Council;
- promotion of the Uttlesford licensed trade as professional;
- reduction in the trade's contribution to air pollution;
- potential benefits to the health of Uttlesford licensed drivers as it has been demonstrated that the air quality inside a vehicle in traffic is significantly worse than outside the vehicle.

81. Licensing standards for Hackney Carriage and Private Hire vehicles

82. The first licensing standard of the current policy for both types of licensed vehicle would be replaced by the proposed vehicle age and emissions policy.

83. Both hackney carriage and private hire vehicles have the same criteria regarding leg room and door opening widths (standards 2, 4, 5 & 6 of both appendix C & D of the current policy). The trade find these unhelpful and needlessly complicated. It is suggested that these standards be replaced by the following wording:

The maximum number of passengers which the vehicle will be licensed to carry will be the number of seats recorded on the V5C registration document (logbook) as being suitable for carrying passengers. Where a vehicle has foldable seats, for example in the boot, the decision to licence these for passengers will be made on a case by case basis.

84. Standard 7 can be removed as all modern cars are fitted with safety glass. Older vintage vehicles that may not have safety glass will be considered under the age and emissions policy so the safety of the glass can be considered then.

85. Standard 8 for both types of licensed vehicles requires estate or hatchback cars to be fitted with a Council approved guard or device to separate the rear luggage area from the passengers. This standard does not mention MPV's or larger van based vehicles (such as the Ford C-Max or Tourneo) and these types of vehicles have similar luggage carrying arrangements.

86. Licensed drivers are considered fit and proper to safely drive the public so this standard is considered unnecessary and onerous. If an incident did occur when a passenger was injured by unsecured luggage then the matter could be dealt with by considering the driver's fitness and propriety to remain licensed. It is possible that a condition regarding the safe carrying of luggage could be added to driver licences if it was felt necessary.

87. Standard 9 relates to tyres. This is unnecessary and unclear as the word 'suitable' is subjective. There are ongoing legal obligations on vehicle owners to ensure they remain roadworthy and the tyres will be checked at the council's required inspections and during MOT's.

88. Standard 10 is appropriate to remain but with a minor amendment:

To carry a manufacturer supplied or approved spare/space saver wheel, manufacturers approved temporary repair kit or to have run flat tyres.

89. Standards 11 and 12 should remain unchanged as they are clear and enforceable and contribute to public safety.

90. The types of vehicle which can be licensed for Private Hire use are detailed in the standards but this is not the case for Hackney Carriages. However types of vehicle that can be licensed do appear in the vehicle specification documents and these differ slightly from the standards in the current handbook. It is suggested that the following standards be applied to both types of vehicles:

Types of vehicles that will be licensed:

- *a purpose-built London-style hackney carriage (meaning such vehicle has been approved for use by Transport for London for use as a hackney carriage), or a converted vehicle, which is capable of carrying a passenger whilst sitting in a wheelchair, providing such vehicle has the appropriate approval-type certificate; or*
- *a saloon, hatchback, estate or multi-purpose people carrier capable of carrying a folded wheelchair, with at least 4 doors; or*
- *a minibus capable of seating a maximum of 8 passengers excluding the driver, with at least 4 doors; or*
- *an extended wheelbase vehicle modified by the manufacturer or by a specialist converter approved by the manufacturer and that has the appropriate approval-type certificate (Private Hire only); or*
- *a Smart Car (Private Hire Only).*

91. The current standards require all vehicles to be either a standard right hand drive car or minibus type vehicle with a minimum of 4 doors. This contradicts the fact that the same standards allow a Smart car to be licensed as a private hire vehicle. The contradiction is cleared up in the standards above and the issue of left hand drive vehicles is dealt with below and it includes an explanation of the reasons for the standard:

Left-hand drive vehicles will not be suitable for licensing on safety grounds as they will generally require front-seat passengers to step into the roadway to enter or exit the vehicle. Any vehicle which does not allow for safe near-side access and egress for passengers will also not be licensed.

92. The vehicle specifications require all licensed vehicles to be of a standard manufacturers colour and there is no proposal to change this requirement.
93. The current vehicle specification requires all vehicles except those carrying out only schools contracts to be a minimum of 1300cc. Vehicles carrying out school contracts only are allowed to have a capacity of no less than 1200cc. As both types of vehicle are issued with the same type of licence and can carry out the same type of work it is not clear why they are allowed to have different capacity engines. Either vehicle could potentially be fully loaded and once a licence was granted for a school contract only vehicle that vehicle is licensed to carry out any type of work. This appears to be the only difference in the vehicles specification so it is suggested that a uniform standard is set to avoid confusion.
94. During discussions with the trade they highlighted that in the age of hybrid and electric vehicles setting a minimum cubic capacity may be an outdated and restrictive step. The suggestion was that a BHP/kW figure would be more useful. Unfortunately it is not possible to find a CC to BHP/kW conversion chart because this simply does not exist; power output depends on many things other than capacity. Engines with the same swept volume can have wildly different power outputs. Similarly you can find engines with the same power output but very different swept volumes. As a result of this calculations using information from various sources have been used to come up with a suggested figure to use to replace minimum engine size. The wording of the suggested standard would be:

Vehicles shall produce a minimum of 76BHP/57kW.

95. The proposed combined vehicle standards can be found at **Appendix D**.

96. Conditions for vehicles, drivers and operators licences

97. Appendix E and Appendix F of the current handbook detail the conditions which apply to vehicles. The following amendments to the hackney carriage vehicle conditions are proposed:

- 1) A shortening of the statement at point 3.4;
- 2) Deletion of the times when the roof light can be removed from the vehicle from point 5;
- 3) Amendment to point 6 so that the roof light is required to be illuminated at all times when plying for hire;
- 4) Point 7 clarified and details of how long records must be kept have been added;
- 5) Point 8 amended to replace the decision maker;

- 6) Points 11 and 12 have been modified with regards to whom matters should be reported.
98. Similar changes are proposed to the Private Hire vehicle conditions accept with regards to the use of the roof light and with the addition of:
- 1) The removal of conditions 8 and 9 relating to the use of the vehicle;
99. References to the Assistant Chief Executive – Legal will be replaced with Licensing so there is still a duty to report but it is clear where such a report should be made.
100. The proposed vehicle conditions are attached to this report as **Appendix E**.
101. Appendix G of the Handbook contains the conditions which are placed on a drivers licence issued by the authority. The suggested amendments are:
- 1) In condition 2 detail what types of clothing are considered unacceptable as the term 'smart' is subjective;
 - 2) Add a condition requiring luggage to be carried securely;
 - 3) Amend condition 13 (now condition 14) to reflect that Hackney Carriages are not required to use the meter for journeys other than those that start and end in the District;
 - 4) Remove parts C & D from condition 18 as these are covered in the Draft Suitability Policy;
 - 5) Two additional conditions are suggested in relation to smoking and the use of electronic cigarettes or vaping whilst in a licensed vehicle and the requirement to take the shortest route unless otherwise agreed with the passenger.
102. The proposed driver conditions are attached to this report as **Appendix F**.
103. Appendix H of the handbook contains the conditions which relate to Private Hire Operator's licences. Many of the Private Hire vehicles licensed by Uttlesford never work within the District and as such the authority has little or no contact with them or their drivers. This makes it difficult to ensure compliance. In these circumstances it is appropriate to impose additional conditions on the operators to supply information to the authority to ensure that public safety can be assured. The proposed amendments to the current Private Hire Operator conditions are:
- 1) Add the requirement to record the address where each vehicle is kept when it is not working to condition 1(This is legally required at the time of the vehicle being licensed but this condition will require the operator to record if this has changed during the life of the licence);
 - 2) Add to condition 2 the requirement to record the licence number of the driver in addition to the name, how the booking was made and the time of the pick up;
 - 3) Slightly amend condition 3 to make it clearer and replace the subjective term 'forthwith' with a defined time period;
 - 4) Remove condition 5 as it is now dealt with by condition 3;

- 5) Amend condition 6 (now condition 5) to remove the reference to the Assistant Chief Executive – Legal and remove requirement ‘a’ as this is covered by the Draft Suitability Policy. To make point ‘d’ a separate condition;
- 6) Amend condition 8 to clarify what complaints should be notified to the authority and remove the reference to Assistant Chief Executive – Legal;
- 7) Add a condition requiring public liability insurance to be in place for premises where the public have access and a copy of such insurance to be provided to the authority;
- 8) Four conditions have been added requiring operators to provide information to the authority on a quarterly basis. The information will allow the authority to promote public safety for a number of reasons.
 - a) The authority will have up-to-date records of which private hire drivers and vehicles are working for which operator and identify those drivers that may no longer be linked to an operator and therefore should not be working;
 - b) The authority will know which Hackney Carriages are working for Private Hire Operators. This is entirely legal however if the vehicle is not working predominantly outside of the area in which it is licensed. If a Hackney Carriage licensed by another authority appears to be working predominantly outside the area in which it is licensed then the authority can carry out the appropriate investigations;
 - c) Private Hire Operators can legally subcontract work to another Private Hire Operator. By knowing which Private Hire Operators are receiving subcontracted work from Uttlesford licensed operators it will allow the authority to quickly identify vehicles if complaints are received about them operating within the District and ensure that the correct records are being maintained;
 - d) Currently the authority does not have a clear picture of where its licensed Private Hire vehicles are operating and this makes compliance and enforcement work very difficult. By being supplied information regarding where contracts are being carried out and by which vehicles targeted operations, perhaps in partnership with other Local or County authorities, could be carried out to aid compliance.
- 9) Two new conditions be added requiring Private Hire Operator’s to undertake checks to ensure that staff that have access to their records are fit and proper people to have access to that personal data. The same criteria for suitability should apply to employees as would be applied to the operator themselves as they have access to the same sensitive information.

104. A final note has been added to the conditions to remind prospective operators that they are required to have premises in the District to be licensed by Uttlesford District Council. Where an operator produces proof that they have premises within the District an operator’s licence will not normally be granted for a longer duration than any lease or agreement relating to that property lasts. This will avoid the issue of operators temporarily renting

premises on a short-term basis to gain a 5 year licence then operating from outside the District. Pro-rata fees would need to be calculated for shorter duration licences.

105. The suggested amended operator conditions are attached to this report as **Appendix G**.

106. Officers are requesting the Committee:

- (i) Endorse the wording of the proposed amendments to Uttlesford District Council's taxi licensing policy for public consultation.

Risk Analysis

107.

Risk	Likelihood	Impact	Mitigating actions
3 An unsuitable person may be granted a driver, vehicle or operator licence.	The revision to the policies and procedures will minimise the likelihood of this occurrence by ensuring an effective and robust licensing regime adequately supported by appropriate enforcement.	Amending UDC's taxi licensing policies will promote public safety which is the core purpose of this licensing regime	Members adopt the recommended changes and updates to current UDC policy and procedures.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

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Customer Service

The benefit to your business of good customer service

The impact on the trade and other parts of the business (operators) of bad service

What constitutes good customer service in a taxi or private hire vehicle?

The current taxi and private hire market (apps etc.) and how this impacts upon consumer choice and expectation

Practical examples of good customer service

What to do if a customer asks you to do something that is wrong or illegal

Is the customer always right?

How following rules and regulations helps to reinforce good customer service (wearing of badges, helping with luggage etc.)

Customer service statistics (examples from business and surveys that show how customers react to good and bad service)

Rules and Regulations

A thorough journey through all rules and regulations including:

How and where to stop safely

How to correctly identify a passenger

The risks of misidentifying a passenger (plying, insurance, driver safety, bad customer service)

Seatbelts

Smoking

Signage

Luggage

Confirming the route

Meter use

Receipts

Dealing with requests from customers (windows, music etc.)

Payment

Assisting with driver details in the event of the customer wishing to make a complaint

Driver Safety and Reporting Crime

CCTV

Safety Screens

Credit and Debit card machines

The law and how this protects you (non-payment of fares, assault, abuse)

How to report an incident and how to ensure it is correctly investigated

Civil claims for unpaid fares

Criminal offences

Practical tips (driving at night, keeping doors locked, windows up etc.)

Current trends and risks to drivers

Safe-Guarding

How to spot the signs of exploitation in general.

What this means for taxi and private hire drivers specifically (training is tailored to this trade rather than generic 'safe-guarding' training)

Real examples of incidents to work through and give opinions and thoughts on
Child Sexual Exploitation – definitions and signs, age of consent, the law concerning human trafficking

Extremism – definitions and signs, the dangers posed by all forms of extremism

Modern Slavery – definitions and signs, the law concerning human trafficking

County Lines (drug trafficking) – definitions and signs, children particularly at risk.

The warning signs.

How to report concerns

What happens to your information?

Keeping yourself safe when assisting others

Disability and Equality Awareness

Split in to three parts – the law, business benefits and practical assistance

The law covers:

The Equality Act 2010

What equality means

Civil and Criminal elements of the Act

Reasonable Adjustment and what this means for drivers

The risks of non-compliance (fines, criminal offences)

Business benefits cover:

The numbers of disabled passengers and types of disability

The growing market and the economic reasons behind this growth

The market specific to Uttlesford District

The spending power of the disabled community

The growth in other issues such as mental health and dementia and how this will impact on the trade

County Council school contracts

Practical assistance covers:

Assisting wheelchair users

Language to use

Language to avoid

Sighted Guiding

Assistance for passenger with learning differences

Assistance for passengers who are autistic

Assistance Dogs and other dogs that assist but are not recognised in law

Dementia, dementia friendly cities and the future of safe-guarding vulnerable adults

(DRAFT) Policy on deciding the suitability of applicants and licensees in the hackney and private hire trades



***UTTLESFORD
DISTRICT
COUNCIL***

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Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Philip Kolvin QC
Cornerstone Barristers

April 2018

This policy emphasises that any circumstance relating to the applicant or licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to applicants and licensees as to how Uttlesford District Council will approach the important task of making determinations about the safety and suitability of those that seek to obtain a licence to work in the Hackney Carriage and Private Hire Trade.

Chapter 1: Introduction

- 1.1 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.2 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.3 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.4 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision so it is a matter for Uttlesford District Council to decide.
- 1.5 This document is intended to provide guidance on how we will determine suitability, taking into account the character of the applicant or licensee. In particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.6 A licensing authority policy can take a 'bright line approach' and say "never", but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².
- 1.7 The otherwise good character and driving record of the subject of the decision will not be considered as exceptional circumstances.

¹ Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence

² [2007] 1 WLR 2067

- 1.8 Simply remaining free from conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 1.9 In Chapter 2 this Policy explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.6 and Chapters 3 and 4.
- 1.10 This Policy contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

Chapter 2: Offenders and Offending - An Overview

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public³. With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how we determine risk and factors that will be considered when an applicant or licence holder seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that we, the decision maker, considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm⁴. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.
- 2.6 Flaud⁵ noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event

³ DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

⁴ Kemshall, H. (2008). *Understanding the Management of High Risk Offenders* (Crime and Justice). Open University Press

⁵ Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

occurring; danger may be the degree of damage (harm) caused should that event take place⁶.

- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future⁷. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%⁸. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences⁹.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity¹⁰. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population¹¹. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as "any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of

⁶ Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁷ Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback

⁸ Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

⁹ Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

¹⁰ McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

¹¹ Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

re-conviction. An individual's ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time"¹².

- 2.12 Kurlychek, 2007 in her study noted that "a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age"¹³.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over¹⁴. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships¹⁵. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males¹⁶.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist¹⁷. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance¹⁸. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that "individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past"¹⁹.
- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual's previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will

¹² National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

¹³ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

¹⁴ Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

¹⁵ Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

¹⁶ Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatstone: Essex.

¹⁷ Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

¹⁸ Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3rd Edition. Oxford: Oxford University Press.

¹⁹ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person's ability to sustain such change. This can be a long process that can only be achieved over time.

Chapter 3: 'Taxi' Licensing Overview

- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and taxi drivers have significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitary authorities and Welsh Councils) and Transport for London (TfL) are responsible for hackney carriage and private hire licensing in their respective areas.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the Department for Transport (DfT) *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how will Uttlesford District Council determine an application, or take action against a licence?

Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover

both hackney carriage and private hire drivers. In each case there are identical statutory criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person²⁰.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK²¹.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office²².
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*²³. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) 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?’²⁴
- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.
- 3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers’ licence?

²⁰ Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

²¹ Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

²² “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1st December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

²³ [2002] EWHC 1145 (Admin), [2003] RTR 199

²⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional, para 10.5

3.19 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”²⁵

This “information” can include any pre-conditions or tests that they consider necessary

3.20 Some of these are universal, such as medical assessments²⁶. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared)²⁷ can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker²⁸.

3.23 All Applicants/Licensees are required to obtain an Enhanced DBS Certificate with Barred Lists checks²⁹ and to provide this to the Licensing Authority. All Licensees are advised to maintain their Certificates through the DBS Update Service throughout the currency of their licence saving them expense and time.

3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.

²⁵ Local Government (Miscellaneous Provisions) Act 1976 s57(1)

²⁶ See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

²⁷ “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

²⁸ See *Adamson v Waveney District Council* [1997] 2 All ER 898

²⁹ “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered on X61 line 2” DBS email 31st August 2017.

- 3.25 This policy provides a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability³⁰.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that Uttlesford District Council is not imposing any additional punishment in relation to previous convictions or behaviour. We are using all the information that is available to us to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account³¹.
- 3.29 Historically, all too often local authorities have departed from their policies and granted licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was not driving a taxi, it is much less serious, or even if it was in a taxi that there were no passengers aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.
- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount

³⁰ As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

³¹ Leeds City Council v Hussain [2002] EWHC 1145 (Admin), [2003] RTR 199 and Chiswell District Council v Anwar [2011] EWHC 2943 (Admin)

responsibility of a licensing authority is to protect the public, not provide employment opportunities.

- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority³². A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person³³.
- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked and Uttlesford District Council is mindful

³² See *Dittah v Birmingham City Council, Choudhry v Birmingham City Council* [1993] RTR 356 QBD

³³ Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.

- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service. A statutory declaration will be required of the applicant covering past convictions which would not appear on the Basic Disclosure.
- 3.39 Although this is by no means a perfect system, it does give Uttlesford District Council a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers will be used:
- “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?”³⁴
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. Uttlesford District Council has decided to impose a condition on PHO licences requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task. PHO licence holders will be required to retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.
- 3.42 Care will be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation³⁵. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

³⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 12.

³⁵ See s57(1)(c) of the 1976 Act.

Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence³⁶ and Uttlesford District Council will therefore ensure that both our enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions.
- 3.47 A suitable test would be:
“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”³⁷

³⁶ S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.

³⁷ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional, para 8.98

Chapter 4: Guidance on Determination

- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely upon; hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how Uttlesford District Council will determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but these currently include all of the following:

Vehicles:

- Basic DBS checks and statutory declaration;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc.;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc.;
- Emission limits/vehicle age limits;

Drivers:

- Enhanced DBS checks;
- Checks made to the National Anti-Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Test of knowledge of the geographic area (Hackney Carriage Driver's only);
- Written rules and regulations, Highway Code and arithmetic tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks and statutory declaration;
- Vetting procedures for their staff;
- Premises within the District.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has decided to use its absolute discretion and require applicants to provide a Basic DBS check and a statutory declaration to support their assertion that they are "safe and suitable" to hold a licence.
- 4.9 "Fit and proper" means that the individual (or in the case of a private hire operator's licence, the limited company together with its directors and secretary, or all members of a partnership)³⁸ is "safe and suitable" to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament.
- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive

³⁸ Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

crime. A caution is regarded in exactly the same way as a conviction³⁹. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁴⁰.

- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination of any application will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged but not convicted it will be for Uttlesford District Council to determine what action to take considering the individual circumstances of the case.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of this policy.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

³⁹ This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

⁴⁰ This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

- 4.19 It is important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use this policy as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority will consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence or a private hire driver's licence (or a combined licence driver's licence) are identical, they are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse after completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

- 4.29 Where an applicant has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they **will not be licensed**.

Exploitation

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

Offences involving violence

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

Possession of a weapon

- 4.32 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Sex and indecency offences

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

Dishonesty

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Drugs

- 4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until **at least 10 years** have elapsed since the completion of any sentence imposed.
- 4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until **at least 5 years** have elapsed since the completion of any sentence 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.

Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed or from conviction (whichever is longer).

Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.
- 4.40 For licence holders who have accumulated 9 or more points on their DVLA drivers licence they are required to pass the Council approved driving test. If this is not done within 6 calendar weeks of the points being imposed then the taxi drivers licence will be suspended until the driver has successfully undertaken the test. Such testing will be at the licence holder's expense.
- 4.41 No driver will be allowed to hold a taxi drivers licence if they have 12 or more current points on their DVLA licence.
- 4.42 In cases where the courts have imposed a disqualification in respect of a DVLA drivers licence an application for a drivers licence will not be granted until **at least 7 years** have elapsed following the reinstatement of that licence. Where a person has had more than one period of disqualification then the application will be refused.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.43 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.

- 4.44 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.

Other motoring offences

- 4.45 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). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until **at least 5 years** have elapsed since the completion of any sentence imposed or the date on which the number of points on the DVLA licence dropped below 7.
- 4.46 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 an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

- 4.47 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Vehicle use offences

- 4.48 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 be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Private Hire Operators

- 4.49 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 private hire vehicle (except where they are also licensed as a private hire 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.
- 4.50 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.51 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be affected by means of the individual staff member being required by the operator to obtain a basic DBS certificate and to make a statutory declaration. If an operator is found not to be applying the required

standards or is using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.

- 4.52 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

- 4.53 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 4.54 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.55 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.56 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.57 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Existing Licence holders

- 4.58 As public trust and confidence in the overall safety and integrity of the system of taxi licensing is vital, where a licence holder has received a conviction for any category of offences detailed above, their licence(s) **will be revoked**.

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Licensed Vehicle Age and Emissions Policy

The purpose of this policy is to ensure taxis are as safe, reliable and comfortable as possible while at the same time minimising emissions. The policy aims to have a positive impact on emissions as it is recognised that the age of vehicles and the exhaust emission specification are critical to the level of pollutants emitted. Consequently, to improve air quality and reduce emissions from the taxi fleet, standards relating to the exhaust emissions have been introduced in addition to the requirements regarding the age of vehicles.

In order to be licensed, a vehicle must **meet both the age and emissions criteria**. Applications to licence vehicles which fall outside of the policy will be considered on their own merits.

Vehicle Age

At first application - Vehicle licences will not be granted in respect of vehicles that were first registered (or, in the case of imported vehicles, manufactured) more than 5 years prior to the date that the application is made.

At renewal - Vehicle licences will not be renewed in respect of any licensed vehicle that was first registered (or, in the case of imported vehicles, manufactured) more than 10 years prior to the date of renewal (or 12 years in the case of purpose-built or fully wheelchair accessible vehicles).

A vehicle may be considered for licensing beyond these upper age limits if it is in 'exceptional condition'. The criteria for meeting this standard are below.

Exceptional Condition Criteria

A vehicle will be considered to be in 'exceptional condition' if **ALL** of the following apply:

1. The vehicle must not have failed the council's vehicle inspection or standard MOT (or just the standard MOT if the vehicle has not been licensed previously) on any significant item within the previous five years. For the purposes of this criterion, a significant item is defined as any item that would cost more than £30.00 to correct.
2. The bodywork is in near perfect condition with no signs of panel age deterioration, dents, scratches, stone chips, or rust or any other abrasions that may detract from the overall appearance of the vehicle.
3. The general paint condition should show no signs of fading, discolouration or mismatching that may detract from the overall appearance of the vehicle.
4. The interior trim, panels, seating and carpets and upholstery are in excellent condition, clean and free from damage and discolouration.
5. The boot or luggage compartment is in good condition, clean and undamaged.
6. Passenger areas are free from damp and any unpleasant odours.
7. The vehicle is in excellent mechanical condition and in all respects be safe and roadworthy, with no signs of corrosion to the mechanical parts, chassis, underside or bodywork.
8. The vehicle must have a complete service record to show that it has been properly serviced and maintained in accordance with the manufacturer's service specification.
9. The vehicle passes the council's vehicle inspection.

The first eight criteria will be checked by an officer of the council and the proprietor of the vehicle must provide all the necessary documentation to support their request for a vehicle licence to be granted outside of this policy. An appointment will need to be made for this and a fee may be charged.

If the first eight criteria are satisfied then the proprietor of the vehicle must book and pay for the council's approved vehicle inspection from a nominated garage and produce the pass certificate to the council.

Emissions Standards

At first application –

At first application –

- Diesel vehicles must meet or exceed Euro 6 emissions standards from 01/04/2019
- Other vehicles must meet or exceed Euro 5 emissions standards from 01/04/2019
- Other vehicles must meet or exceed Euro 6 emissions standards from 01/01/2020

At renewal –

- From 01/04/2020 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 5 emissions standards.
- From 01/04/2022 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 6 emissions standards.

Where vehicles do not meet the relevant emissions criteria the proprietor may:

- have the vehicle adapted / modified to meet the standard and provide evidence of this
- change the fuel that is used to a cleaner alternative, such as bio diesel or
- replace the vehicle with one that meets the emission standard

Notwithstanding that each application will be considered on its own merits.

When will the different criteria be applied?

If the licence of a currently licensed Hackney Carriage or Private Hire Vehicle is allowed to **EXPIRE** by its proprietor then any subsequent application will **NOT** be considered as a renewal. This means that where an existing vehicle licence expires, a subsequent application for a licence for that vehicle will be treated as a first time application and the standards and criteria relating to first time applications will be applied.

For the avoidance of doubt when a new vehicle has an existing plate transferred onto it the vehicle will be considered under the criteria for a vehicle being licensed for the first time.

Low Emission and Electric Vehicles

The Council encourages the uptake of low emission and electric vehicles in the District. The authority will seek to examine the feasibility of introducing schemes which help improve the charging network and aid drivers in testing and purchasing electric vehicles.

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LICENSING STANDARDS

HACKNEY CARRIAGES & PRIVATE HIRE VEHICLES

- 1) Types of vehicles that will be licensed:
 - a purpose-built London-style hackney carriage (meaning such vehicle has been approved for use by Transport for London for use as a hackney carriage), or a converted vehicle, which is capable of carrying a passenger whilst sitting in a wheelchair, providing such vehicle has the appropriate approval-type certificate; or
 - a saloon, hatchback, estate or multi-purpose people carrier capable of carrying a folded wheelchair, with at least 4 doors; or
 - a minibus capable of seating a maximum of 8 passengers excluding the driver, with at least 4 doors; or
 - an extended wheelbase vehicle modified by the manufacturer or by a specialist converter approved by the manufacturer and that has the appropriate approval-type certificate (Private Hire only); or
 - a Smart Car (Private Hire Only).
- 2) Must comply with the 'Vehicle age & emissions' policy.
- 3) Vehicles shall produce a minimum of 76BHP/57kW.
- 4) Must be right hand drive.¹
- 5) Must be standard manufacturers colour.
- 6) The maximum number of passengers which the vehicle will be licensed to carry will be the number of seats recorded on the V5C registration document (logbook) as being suitable for carrying passengers. Where a vehicle has foldable or removable seats, for example in the boot, the decision to licence these for passengers will be made on a case by case basis.
- 7) To carry a manufacturer supplied or approved spare/space saver wheel, manufacturers approved temporary repair kit or to have run flat tyres.
- 8) To be fitted with an internal rear-view mirror.
- 9) To be fitted on both sides with external rear-view mirrors.

¹ Left-hand drive vehicles will not be suitable for licensing on safety grounds as they will generally require front-seat passengers to step into the roadway to enter or exit the vehicle. Any vehicle which does not allow for safe near-side access and egress for passengers will also not be licensed.

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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:-
 1. The number of the licence
 2. The number of passengers prescribed by the licence
 3. The Table of Fares currently in operation
 4. A statement that "Complaints should be referred to the proprietor in the first instance and if necessary to Licensing at Uttlesford District Council via licensing@uttlesford.gov.uk or 01799 510598 quoting the driver and/or vehicle licence number".
 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.
6. Ensure the roof sign is illuminated when the vehicle is plying for hire.
7. If the Hackney Carriage vehicle is being driven by a licensed driver other than the proprietor, the proprietor must hold a copy of the individual's Hackney Carriage driver's licence at all times when that driver is driving the vehicle. The proprietor must create a register (electronically or otherwise) and record details of the licence in that register, records to be kept for a minimum of 6 months.
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 Environmental Health Manager (Commercial) 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 Licensing 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 Licensing in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

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:-
 1. The number of the licence.
 2. The number of passengers prescribed by the licence.
 3. A statement that "Complaints should be referred to the proprietor in the first instance and if necessary to Licensing at Uttlesford District Council via licensing@uttlesford.gov.uk or 01799 510598 quoting the driver and/or vehicle licence number".
 4. 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 (unless an exemption has been granted by the authority).
5. If the Private Hire vehicle is being driven by a licensed driver other than the proprietor, the proprietor must hold a copy of the individual's Private Hire driver's licence at all times when that driver is driving the vehicle. The proprietor must create a register (electronically or otherwise) and record details of the licence in that register, records to be kept for a minimum of 6 months.
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 Environmental Health Manager (Commercial) 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. Notify Licensing 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.
9. Notify Licensing in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

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

Drivers will:-

1. Be polite
2. Wear smart clothing. The following are deemed to be unacceptable:
 - i) Bare chests;
 - ii) Clothing or footwear which is unclean or damaged;
 - iii) Clothing printed with words, logos or graphics which might offend;
 - iv) Sports shirts e.g. football, rugby or cricket tops or track suits;
 - v) Footwear that prevents the safe operation of the licensed vehicle;
 - vi) Shorts, other than smart tailored shorts.
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. Carry luggage safely and securely
6. Not eat or drink in the vehicle during the course of a hiring
7. Not play any radio, tape recorder, CD/DVD player or similar device during the course of hiring without the hirer's permission
8. Not use equipment of the type referred to in paragraph 7 above so as to cause a nuisance either to passengers in the vehicle or to others
9. Take all reasonable steps to ensure the safety of passengers
10. Not carry more than the number of passengers specified in the licence for the vehicle
11. Not carry any passengers other than the hirer without the hirer's permission
12. Not carry any animals during the course of a hiring other than animals belonging to the hirer
13. Ensure any animals carried in the vehicle are kept in such a position so as not to be a distraction to the driver or to cause a danger or nuisance
14. Not to demand from a hirer a fare greater than the metered rate or has previously been agreed with the hirer (applicable to the use of private hire vehicles and hackney carriages carrying out journeys that do not start and end in the District)
15. Issue written receipts for fares paid when requested to do so

16. Search the vehicle at the end of each hiring for lost property
17. 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
18. 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
19. 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 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
20. The driver shall not at any time smoke tobacco or any other like substance or use electronic cigarettes or similar in a licensed vehicle
21. The driver shall when hired to drive to any particular destination, subject to any direction given by the hirer, proceed to such destination by the shortest possible route

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 vehicle licence number
 - e) The address where the vehicle is kept when it is not working

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) How the booking was made (via app, telephone, in person)
 - d) The start point of journey and actual pick up time
 - e) The destination of the journey
 - f) The fare paid
 - g) The private hire licence number of the vehicle
 - h) The name of the driver and the driver licence number

3. The register and records referred to in conditions 1 and 2 above can be kept in either paper format or electronically. The chosen format should permit inspection with the minimum of delay, and in any case within 12 hours, in response to a request made under section 56(3) Local Government (Miscellaneous Provisions) Act 1976. Where records are kept in electronic format facilities must be available for records to be printed onto paper and to be made available to an officer of the authority or a Police Officer within 12 hours.

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

5. The operator must notify Licensing in writing within 7 days of:
 - a) Any change of his or her residential address.
 - b) Any change of his or her business address.
 - c) 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 UDC Licensing Team of any complaints made against the operator or any driver used by the operator within two working days of receipt of the complaint. This includes complaints received from third parties and relates to any journey whether a hiring by the public or from contract work. Any response to a complaint should be forwarded to Licensing when made.
9. Ensure that public liability insurance is in place for any premises to which the public have access and provide a copy to the UDC Licensing Team.
10. On a quarterly basis each year (10th April, 10th July, 10th October, 10th January or the next working day if that date falls on a weekend) operators are required to provide the details of the licensed drivers and vehicles that are operating under their operator's licence:
 - a) Name and licence number of drivers; and
 - b) Registration number and licence number of vehicles.
11. On a quarterly basis each year (10th April, 10th July, 10th October, 10th January or the next working day if that date falls on a weekend) operators are required to provide the details of any Hackney Carriages that have carried out Private Hire work for the operator:
 - a) Registration number, licence number and issuing authority of the Hackney Carriage vehicle; and
 - b) The number of jobs each Hackney Carriage has fulfilled in that quarter.
12. On a quarterly basis each year (10th April, 10th July, 10th October, 10th January or the next working day if that date falls on a weekend) operators are required to provide the details of other operators to whom they have subcontracted work:
 - a) Operators Name and address; and
 - b) Licence number and issuing authority.
13. On a quarterly basis each year (10th April, 10th July, 10th October, 10th January or the next working day if that date falls on a weekend) operators are required to provide the details of all contracts which the operator fulfils which start and finish outside of the District:

- a) Name and address of the person or company who the contract is with;
and
 - b) Starting point for journey; and
 - c) Destination of the journey; and
 - d) Registration and licence number of the vehicle carrying out the contract.
14. The operator is required to ensure that all employees that have access to their records, bookings or contracts have:
- a) A basic disclosure check and completes a statutory declaration in relation to previous offences before being commencing employment;
and
 - b) Completes a new basic disclosure at the time when the operator's licence is renewed.
15. Persons employed by an operator must satisfy the suitability standards that the authority applies to Private Hire Operator's. The Operator is required to keep records of these checks.
16. Where a premise is rented or leased within the District for the purposes of being an Uttlesford Licensed Private Hire Operator then a copy of such agreement must be produced upon application for the Operator's licence.

NOTE: The authority takes the view that you must have premises within the District to be granted an operator's licence by UDC. Therefore an operator's licence expiry date will not be granted for longer than the time period that you can evidence you have rented or leased premises within the Disttict.

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