



## Public Document Pack

# Uttlesford District Council

Chief Executive: Dawn French

## Licensing and Environmental Health Committee

**Date:** Tuesday, 13th July, 2021

**Time:** 7.00 pm

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

**Chairman:** Councillor P Lavelle

**Members:** Councillors S Barker, M Caton, C Day (Vice-Chair), A Dean, R Freeman, P Lees, L Pepper, G Smith and M Tayler

**Substitutes:** Councillors A Armstrong, A Coote, C Criscione, A Khan and M Lemon

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**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 Minutes of Previous Meetings**

4 - 19

To consider the minutes of the previous meetings held on 5 May, 10 May and 15 June 2021.

**3 Updated Policy Relating to the Hackney Carriage and Private Hire Trades**

20 - 174

To note the updated Hackney Carriage and Private Hire Trade Policy.

**4 Enforcement Update**

175 - 177

To note the enforcement activities carried out by Licensing Officers during the period of 22 April 2021 to 30 June 2021.

## **MEETINGS AND THE PUBLIC**

In light of the recent High Court judgement regarding the extension of remote meeting regulations, Council, Cabinet and Committee meetings will now be returning to in-person and will be held on-site from Thursday 6<sup>th</sup> May 2021. However, due to social distancing measures and capacity considerations in line with the Council's risk assessment, public access and participation will continue to be encouraged virtually until further notice. Members of the public are welcome to listen live to the debate of any of the Council's Cabinet or Committee meetings. All live broadcasts and meeting papers can be viewed on the Council's calendar of meetings webpage.

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# Agenda Item 2

**LICENSING PANEL HEARING held at ZOOM - [HTTPS://ZOOM.US/](https://zoom.us/), on WEDNESDAY, 5 MAY 2021 at 11.30 am**

Present: Councillor P Lavelle (Chair)  
Councillors C Day and R Freeman

Officers in attendance: J Livermore (Senior Licensing and Compliance Officer), C Shanley-Grozavu (Democratic Services Officer), E Smith (Interim Legal Services Manager) and R Way (Licensing and Compliance Manager)

## LIC29 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

## LIC30 **EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED that under section 1001 of the Local Government Act 1972, the public be excluded for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part1 of Schedule 12A of the Act.

## LIC31 **REVIEW OF PRIVATE HIRE OPERATOR'S LICENCE**

The Senior Licensing and Compliance Officer gave a summary of their report and the Licensing Manager made a statement to the panel.

In response to questions, the Senior Licensing and Compliance Officer confirmed that the operator was in receipt of paragraph 7 of the conditions of license which states that an 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. They highlighted that the Licensing Team had contacted the operator once they had contacted by another local authority, regarding complaints about the operator over 3 months previously, and the operator's failure to respond prompted the review of the License.

Officers felt that the polite reminder about condition 7, which was emailed to the operator, was an adequate opportunity for the operator to raise their concerns and in-line with council policy.

The Solicitor, Director and Managing Director for the operator addressed the panel.

The Solicitor said that regarding the 3 incidents concerned, the contracting local authority had contacted the company, but offered them limited information, so the operator did not understand the concern.

The Director then addressed the Committee and summarised a timeline of the three complaints. They said that the contracting local authority had asked the operator to take the drivers off their route, which they agreed to do immediately. They also highlighted that the events had taken place during the Covid-19 pandemic, where the company had been heavily impacted due to factors such as shielding drivers, home-working, sourcing PPE, and passenger disruption, and the priority was to ensure that the routes continued. They said that since January, communication with Uttlesford District Council had been limited, and that they believed that the risk was minimal to the public, as the drivers could not be given any work by other operators within the company group, due to the location. In addition, since the incidents, they have been looking to employ a Compliance Officer for the group who will be responsible for contacting the Council, should any future complaints arise.

In response to Member questions, the operator's Director confirmed that the contracting local authority had asked for the drivers to be removed but, due to data protection concerns, did not provide the operator with any details about the complaints which they had received. They acknowledged both that they were aware that one driver was involved in a police investigation and that there were complaints about their drivers, but had felt that they had dealt with any safeguarding issues by removing the drivers, as requested by the contracting local authority. Furthermore, they explained that it was initially difficult to establish whether the complaints were serious and the circumstances under which they received three complaints in quick succession was highly unusual.

The operator's Managing Director addressed the Panel and said that they take safeguarding very seriously and have put additional measures in place to ensure that failures such as those complained of do not recur, including, employing a Compliance Manager to liaise with Uttlesford District Council, and taking internal disciplinary action if needed in the event of there being any future breaches of the Licensing conditions.

In response to Member questions, the Managing Director emphasised that there would be further measures introduced to address safeguarding concerns including a re-education programme across the company, and ensuring that there are spare drivers available. They also confirmed that they will expect all staff to comply with the Licensing conditions.

To summarise, the Solicitor said that a one-line email from Uttlesford District Council did not alert the company to the severity of their concerns; however the operator did fully accept that they had not appreciated the possible severity of the situation. It was further confirmed that the operator now understood the nature of our expectations in terms of reporting, and that all concerns would be referred to UDC in the future as they are fully committed to meeting every condition of their license. They hoped that any sanction was proportionate, especially as no further concerns have been raised by contracting local authority about the company's operations.

*The operator left the meeting at 12:58pm and the Committee retired to make its decision.*

## **DECISION NOTICE – 24 x 7 (Hants) Ltd**

The matter before the Panel today is a review of the PHV Operator's licence granted to 24 x 7 (Hants) Ltd (24x7) by the Council. We are hearing this case remotely.

This review is about compliance with Condition 7 of the Council's Private Hire Operators Conditions of Licence, which states:

"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" (Emphasis added)

The obligation is to report matters to the Licensing Team within two working days of receipt of the complaint, not within two working days of the conclusion of the operator's own investigation into it, or within two working days of the conclusion of any disciplinary investigation against the perpetrators thereof. Prompt reporting in this fashion is considered even more important when the drivers and vehicles working under the operators' licence are remote from Uttlesford, and doubly so when vulnerable children are involved.

We consider this matter to be extremely serious since the coming into effect of the new HC/PHV Standards in July 2020 the transportation of children to and from school has become a fully regulated activity under the Safeguarding of Vulnerable Persons legislation and the detailed requirements of the "Every Child Matters" and "Working Together" guidance papers are now applicable. Uttlesford licences a considerable number of school contract operators and the 24 x 7 Group are the biggest of all. We therefore consider it to be of the utmost importance that they – and this Committee - adheres to best practice in all respects.

We have had the opportunity of reading a detailed officer's report in this case, a copy of which has been served on 24x7, and we have also seen, as have they, the background documents annexed thereto. These include a number of email chains passing between Hampshire County Council's LADO for Children on behalf of the LEA, and the Licensing Department, a short statement from the Council's Licensing and Compliance Manager under S9 Criminal Justice Act 1967, and the correspondence passing between 24x7 and UDC following receipt of the information from Hampshire. We have also had the benefit of reading a lengthy statement from Philip Henley, one of the directors of 24 x 7 and he spoke to it and answered our questions.

We have also taken into account the Council's policy, the DfT Standards and the DfE documents previously mentioned, and have heard from Mr Livermore and Mr Way on behalf of the Council and from Mr Henley and Mr Mahoney, the Group Managing Director, on behalf of 24 x 7. They were represented by Mr

Button, solicitor, who made most eloquent representations upon the company's behalf and we thank him for his assistance.

On 4th January 2021 the Licensing Team were contacted by the LADO for Hampshire County Council (HCC) regarding action being taken by them and by the Police against drivers employed by 24x7 and licensed by Uttlesford. A request for further information from HCC was made and the request, and the response received, are within the papers before us. This gave the Licensing Department cause for concern, and Mr Way contacted 24 x 7 by email regarding the reporting of complaints. This should have set alarm bells ringing given that by this time Mr Henley was well aware the Police were also involved. HCC's response was received on 26th January, and later that week the Licensing Team formally made contact with 24x7 to enquire what action had been taken by the company. It was clear from the information supplied by HCC that 24x7 had been aware of the investigations since September 2020 but had at no time attempted to contact the Licensing Authority as required by Condition 7 of their licence. In fact they never expressly notified UDC of the complaints against their drivers: officers found out following contact from HCC and we cannot but take the most serious view of this.

At this point we pause to note that the licences of two of the three individual drivers involved have been revoked with immediate effect on the grounds of public safety, and the third is on long term sick and therefore not driving. However, it remains the responsibility of the Licensing Authority to determine whether the individuals who hold a Hackney Carriage and/or Private Hire Driver licence with it remain 'fit and proper' persons with regard to public safety; workplace disciplinary action by an employer/operator cannot be a substitute as it does not prevent them working for someone else or obtaining a second licence. The fact of a revocation of a driver's licence is entered upon the national NR3 database of revocations and refusals, which is consulted by all licensing authorities as part of the application process; and as a licensing authority Uttlesford also has an obligation to refer relevant individuals to the DBS service to ensure they can no longer obtain paid or voluntary work with children or vulnerable adults. One driver has been so referred: dismissal by an employer does not provide this safeguard and further information can be found at <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>.

The failure of 24x7 to notify the Licensing Authority of complaints made against those individuals prevented that critical determination taking place timeously. One driver who subsequently had their licence revoked with immediate effect was the subject of very serious allegations and the associated risk posed to the safety of the public was also serious. 24 x 7 were aware from 19th October that the Police were involved in one case, yet still no contact was made with the Licensing Authority. This is disgraceful. As a result of 24x7's non-compliance with their licence conditions, that driver remained licensed and might have been able to continue working unsupervised for any other UDC licensed operator anywhere in the country; more to the point, the fact that that licence remained extant might have been regarded as sufficient guarantee of them being a fit and proper person for them to obtain a second licence elsewhere.

This dereliction is regarded very seriously by this Committee. Our primary function is the protection of the public, especially children, and if we are in any doubt as to whether an operator is a safe and suitable corporate person to continue to hold a licence then our duty is clear – we should revoke the licence.

We have heard from officers of UDC and from the directors of 24 x 7 (Hants) Ltd. Sadly, we found Mr Henley to be an unimpressive witness. He failed to realise that the very fact of LADO involvement was sufficient to amount to a raising of concerns serious enough to amount to a complaint requiring notification and further failed to appreciate that even though 24 x 7 has responsibilities under employment law to its workforce, there might be other issues that might override this including the legal obligations relating to the safeguarding of children and other vulnerable persons. The transportation of children to and from school is now a fully regulated activity. He admitted in response to our questions that safeguarding is indeed of paramount importance, but he also thought that concerns surrounding a driver could be assuaged by negotiating severance. While that person continued to hold a licence they could have used its very existence to support the obtaining of a second one elsewhere. He further admitted that he might not have understood the imperative of the need to report concerns to UDC and that he did not give this obligation the priority he should have done. He seemed to think that the removal of the drivers would be sufficient: we do not regard it in the same way. Finally, he accepted that until UDC reached out he did not even consider making contact with us, and he now accepts the enormity of his error.

Mr Mahoney then spoke from a corporate perspective. He confirmed that the company takes safeguarding very seriously and that a raft of additional measures have been and are in the process of being put into place. They are recruiting a Group Compliance Manager with the support of the Institute of Licensing and henceforth will report the merest “sniff” of a complaint. He accepted full personal responsibility for the breaches of condition and undertook that it will not happen again. However, in the light of the admissions and failures of Mr Henley, Mr Mahoney did not mention disciplinary action or supervision and we do think measures of this type should perhaps be put into place for a period of time.

Finally, Mr Button made lengthy submissions to us. He emphasised that his client now understood the nature of our expectations in terms of reporting, and that all concerns would be referred to UDC in the future. Though the company does have a duty of care towards its drivers in employment law, and contractual and other obligations to HCC as its client, UDC as its regulator also has a place and we expect to be informed, within two working days, of all relevant matters. Mr Button concluded by repeating his clients’ wholehearted and unreserved apologies.

We have thought long and hard about our decision and have debated it most anxiously. The reporting requirement is within two working days and here it was almost four months before 24 x 7 admitted what had happened following questions from UDC Officers. We repeat, UDC had to find out and enquire of 24x7; we were not told. This involved potentially criminal allegations of a most serious nature and we had to discover it from elsewhere – what if the Licensing

Department had found about the allegations from a member of the public or a journalist?

In arriving at our decision, we have taken into account the number of people who will be affected by it. Vulnerable children and their families. School communities. Hampshire County Council. Last, but not least we consider the innocent employees of this company though we are mindful of the existence of TUPE. We note that the drivers involved are no longer licensed and have listened to what Mr Mahoney has had to say regarding the future.

Very many people depend upon what we decide today, and we also know that Mr Mahoney has every possible incentive to keep the promises he has made to us. The loss of an operators' licence, even that of a subsidiary company, could very easily have a domino effect as education authorities up and down the country learn what has happened. It is in Mr Mahoney's interests to improve and we believe that he knows this and will make good on his promises. It is for this reason that we do not propose to revoke the operators' licence for 24 x 7 (Hants) Ltd. However, the breach was so serious and so severe that it cannot go unsanctioned and so 24 x 7 (Hants) Ltd will receive a formal letter of reprimand from the Chair of this Committee. This will be separate and distinct from the decision notice, which will be sent to Mr Button as agreed with our Legal Adviser, and will be sent directly to Mr Mahoney.

We do not expect to see a 24 x 7 company before us ever again, and hope that this will lead to a root and branch overhaul of operating practices, including an appreciation of the paramount importance of safeguarding among all personnel.

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at  
COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON  
WALDEN, CB11 4ER, on MONDAY, 10 MAY 2021 at 7.00 pm**

Present: Councillor P Lavelle (Chair)  
Councillors C Day (Vice-Chair), R Freeman, V Isham, P Lees,  
B Light and L Pepper

Officers in attendance: T Cobden (Environmental Health Manager - Commercial),  
J Livermore (Senior Licensing and Compliance Officer),  
S Mahoney (Senior Licensing and Compliance Officer),  
C Shanley-Grozavu (Democratic Services Officer), E Smith  
(Solicitor), M Watts (Environmental Health Manager - Protection)  
and R Way (Licensing and Compliance Manager)

**LIC32 PUBLIC SPEAKERS**

Mr Doug Perry and Mr Andy Mahoney addressed the Committee, and a statement from Mr Barry Drinkwater was read out.

Summaries of their statements have been appended to these minutes.

**LIC33 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received by Councillors Barker, Loughlin and Tayler.

Councillor Pepper declared a non-pecuniary interest as she knows Mr Mahoney, one of the speakers.

**LIC34 MINUTES OF PREVIOUS MEETINGS**

The following minutes of previous meetings were approved as true and correct records:

- 10 February 2021
- 20 April 2021

**LIC35 HACKNEY CARRIAGE FARE INCREASE**

The Licensing and Compliance Manager presented a report on a fare increase for Uttlesford Licenced Hackney Carriage vehicles.

The report was noted by the Committee.

**LIC36 UPDATE FROM ENVIRONMENTAL HEALTH**

The Environmental Health Manager (Protection) gave a verbal update to the Committee about the Environmental Health Team's activity. They said that there has been very little enforcement activity since the relaxation of the government's

Covid-19 restrictions as many of the regulations are self-regulating. They thanked the staff across the departments for their work during the pandemic.

The Environmental Health Manager (Commercial) also updated the Committee. They highlighted that there had been 108 new businesses registered and their team were working through the inspection backlog, whilst continuing to do the utmost to ensure that service levels are maintained.

The Chair thanked the officers for their informal update.

LIC37 **NEW UP-TO-DATE POLICY RELATING TO TAXI AND PRIVATE HIRE TRADES**

The Licensing and Compliance Manager presented a report on the progress by the Licensing Team to implement the latest updates to the Hackney Carriage and Private Hire Trades policy. Going forward updating will be carried out on a regular basis to take account of legislative and caselaw developments.

In response to questions from members, officers clarified that the compulsory (non-driving) driver training course for taxi and private hire drivers had to be undertaken in-person, due to security reasons, as the course covers DfT standards and an English test which would be difficult to conduct remotely. In addition, drivers licensed by Uttlesford District Council could not be required to work solely in the area, and some choose to work remotely away from the district.

Members raised safety concerns regarding Uttlesford licensed drivers working a considerable distance from the district. It was noted that current legislation dictates that if an applicant meets the criteria for a licence, then it cannot be refused on the grounds of their geographical location only.

The report was noted by the Committee.

LIC38 **BRIEF ON THE PROGRESS BY THE LICENSING TEAM TO MEET THE DFT STANDARDS**

The Licensing and Compliance Manager presented a report about the progress of the Licensing Team in delivering the new Department for Transport Taxi and PHV Standards which were imposed under statute in July 2020.

The Chair explained that the Licensing Team had dealt with a significant body of work to meet the new Standards and were now actively recruiting for additional staff.

The report was noted by the Committee.

LIC39 **PRIVATE HIRE PLATE EXEMPTIONS**

The Senior Licensing and Compliance Officer presented a report on amendments to the Plate Exemptions policy. The amendments to the policy included changes to the application fees so that the current one-off fee of £11 for

processing plate exemptions would be payable each time the vehicle plate is renewed.

During discussion, it was confirmed that there were over 100 private hire vehicles which currently held a plate exemption; however the Council did not hold a record of the locations in which the drivers worked due to their "right to roam". Despite not displaying a plate on the vehicle, the drivers were still required to carry their licence plate, personal badge and a letter of exemption in the vehicle.

Councillor Day proposed that the drafted amendments to the Private Hire Plate Exemptions Policy be adopted. This was seconded by Councillor Pepper.

RESOLVED to adopt the draft amendments to the Private Hire Plate Exemptions Policy

#### LIC40 **LICENSED VEHICLE COMPLIANCE TESTING STATIONS**

The Senior Licensing and Compliance Officer presented a report about the current work being undertaken by the Licensing Team with MOT testing stations authorised by Uttlesford District Council to carry out licensed vehicle compliance tests on its behalf.

The report was noted by the committee.

#### LIC41 **ENFORCEMENT UPDATE**

The Senior Licensing and Compliance Officer presented a report on the enforcement activities carried out by the Licensing Team during the period of 1<sup>st</sup> February 2021 to 21<sup>st</sup> April 2021.

The report was noted by the committee.

*Meeting ended at 20:03*

## APPENDIX: PUBLIC SPEAKERS

### Mr Barry Drinkwater (statement read out by Mr Doug Perry)

Mr Drinkwater said that the Corporate Consultation strategy was first issued in 2010 and then revised and reissued in 2015, 2018 and 2021. They have submitted written responses to all recent consultations which affect the taxi trade, but there has been no dialogue with officers beyond the initial discussion of proposals or written exchanges. An example of this was the Licensing Fees and Charges for 2021/22, an agenda item on 10<sup>th</sup> February. The trade expected due interrogation from the Council, as it was a key decision, but officers said that they were unable to respond to political questions. He added that there was a written consultation for the policy amendments to private hire plate exemptions, but they did not receive an officer acknowledge and there was no further dialogue, despite the trade contributing to the development of the initial policy.

Mr Drinkwater concluded by saying that we have lived in extremely difficult times and with the ease of Covid-19 restrictions, they hope to see the return of informal dialogue, best practice consultations and proper interrogation.

### Mr Doug Perry

Mr Perry reflected on how the Covid-19 pandemic had affected millions of people and business, including the trade which will not recover for some considerable time. He said that as we come out of the current crisis, the only way forward is to work together; something which the Council does not appear to want to do.

He said that so much was being ignored, such as best practice procedure and facts supported by law, and officers appear to be making decisions and changing the goal post at a whim. He highlighted that the Licensing and Environmental Health Committee is the regulating decision maker in all licensing policy and the officer's responsibility was to research optimism for change, as well as to have early and proper dialogue with the trade. There has also been some confusion around the use of delegated authority from the new Licensing Manager's arrival.

He said that tonight's agenda was over 150 pages, mostly to note changes at an advanced stage. Previous best practice was to invite the committee to approve any changes, following consultation. He felt far from convinced that the trade's input into the consultations was more than a tick-box exercise; an example being the Private Hire plate exemptions where there was no dialogue with the trade and the first time that they saw the proposed amendments was in the agenda pack.

Mr Perry concluded by saying that the outlook for the trade was bleak and that they are fearful that they will cease to exist as companies, such as Uber, take over. They believe that the only way forward is to work together for the benefit of everyone.

## Mr Andy Mahoney

Mr Mahoney requested that there be regular dialogue between operators and the Council, as the regulator. He said that there have been many changes that have resulted in expensive and over-burdensome rules that could affect the taxi sector, to the point that they are not able to operate, and it is only with regular dialogue that everyone will be able to understand the best way forward.

He highlighted an example of a premeeting with officers about Euro Six Compliance, where it was confirmed that Euro Six accessible vehicles would come under designated powers and would be exempt from the requirements. Following the meeting, there was a brief change in the rules, which left one operator in £1.1 million of finance and made others uncompetitive.

To summarise, Mr Mahoney asked that operators be involved in dialogue and that they are willing to spend as much time as was needed to go through proposals and explain what is happening within their industry.

Following a question from Councillor Lees, Mr Mahoney clarified that he believed some implemented policies did go against government policy. He said that there should be more dialogue with officers and members so that the trade can state their position on different matters, help the Council understand where they have problems, and the Council can explain where compliance is best sort.

**LICENSING PANEL HEARING held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on TUESDAY, 15 JUNE 2021 at 2.00 pm**

Present: Councillor P Lavelle (Chair)  
Councillors R Freeman and P Lees

Officers in attendance: J Livermore (Senior Licensing and Compliance Officer),  
C Shanley-Grozavu (Democratic Services Officer) and E Smith (Solicitor)

**LIC1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

**LIC2 EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED that under section 1001 of the Local Government Act 1972, the public be excluded for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

**LIC3 REVIEW OF PRIVATE OPERATOR'S LICENCE**

The Senior Licensing and Compliance Officer gave a summary of their report which requested that members determine a review of the applicant's Private Hire Operator's Licence.

The Chair confirmed that the Panel had been in receipt of the 74-page document bundle, submitted by the operator, but indicated that they were both surprised and disappointed by the late receipt, given much of the information provided is not recent. The solicitor for the operator explained that, due to working from home conditions, they were unable to send it sooner.

The solicitor then addressed the Panel on the operator's behalf. He emphasised that the operator had been licensed by Uttlesford District Council for over 8 years, had never previously been under investigation or sanction and that today's Panel hearing was in respect of an isolated incident.

He then summarised the operator's account of the events which subsequently led up to the Licensing Panel hearing, explaining that a driver had experienced a slight cough and had decided to take a Covid-19 test as a precaution, but was advised by a member of office staff to continue with their school pick-ups as they did not display any specific symptoms of the disease.

When the driver later received a positive Covid-19 test result, the operator contacted families of the passengers and the school by email. The solicitor

explained that the operator had not reported anything to UDC Licensing Officers as they had not been informed of the complaint from the Head Teacher of the Middleton School to the contracting Education Authority, until a meeting with UDC.

The solicitor said that the operator was fully aware of its obligation to inform Uttlesford of any complaints and they presented several examples of where this had been done previously. Furthermore, since the meeting with Licensing Officers, the operator had introduced a range of mitigation measures to ensure that a similar incident does not occur again.

These included employing a senior contract manager to liaise on school contracts, performing spot checks for Covid compliancy and employing a full-time Compliance Officer to deal with complaints. The operator has also changed their processes for identifying possible complaints, and the member of staff who did not recognise the original complaint has now been moved to another department.

In response to members questions, the solicitor clarified the following:

- The contracting Local Authority had provided the operator with a process flow-chart for dealing with Covid-19. Staff had followed this flowchart, and as the driver did not have the 3 symptoms outlined in the document, they advised them that they could continue working.
- The member of staff who advised the driver to continue to work was still an employee of the operator but has been moved to a different department.
- The incoming Compliance Officer will report to a director of the company and will be responsible for dealing with complaints, as well as updating the company's complaints policies. An additional new member of staff will be training staff to understand the operator's policies.
- The operator acknowledged that they had handled the complaint incorrectly and have amended their process for identifying and reviewing potential complaints as a result.

In summary, the solicitor said that they hoped to have addressed the Panel's concerns about the incident. He submitted that a revocation or suspension of license was not an appropriate or proportionate response.

*The operator left the meeting at 15:00 and the Panel retired to make its decision.*

## DECISION NOTICE – A2B CONTRACT CARS LTD

The matter before the Panel today is a review of the PHV Operator's licence granted to A2B Contract Cars Ltd (A2B) by the Council. This is a hybrid hearing, and the Panel, our Legal Advisor, the operator and their solicitor are present. The Case Officer is attending via Zoom..

We consider this matter to be extremely serious since the coming into effect of the new HC/PHV Standards in July 2020 the transportation of children to and from school has become a fully regulated activity under the Safeguarding of Vulnerable Persons Act and the detailed requirements of the "Every Child

Matters” and “Working Together” guidance papers are now applicable. Uttlesford licences a considerable number of school contract operators and we therefore consider it to be of the utmost importance that we adhere to best practice in all respects.

Furthermore, this case involves a knowing and deliberate breach of a number of provisions of delegated legislation made under the authority of the Coronavirus Act 2020 and the public health legislation, which might have – we understand that fortunately it did not impact directly upon the health and economic welfare of a number of very vulnerable children and their families. We have also received information that the breach did cause disruption and concern at the school attended by the passengers affected.

We have had the opportunity of reading a detailed officer’s report in this case, a copy of which has been served on A2B, and we have also seen, as have they, the background documents annexed thereto. These include emails passing between Hertfordshire County Council as the LEA, and the Licensing Department, and a lengthy letter from the Headteacher of Middleton School, Ware, the contents of which speak for themselves. We have also received, late yesterday afternoon, a bundle of documents from A2B, including employment, safeguarding and Covid safety policies, risk assessments, notifications and customer correspondence, and we have read these carefully

We have also taken into account the Council’s policy, the DfT Standards and the DfE documents previously mentioned, and have heard from the Case Officer, Mr Livermore. Messrs Hudson and Flowers attended from A2B and answered the questions we put to them, but they were represented by their solicitor, Mr Thomas, who spoke most eloquently upon their behalf.

Briefly the facts of the case are that on 25th November 2020 a licensed driver in the employ of A2B, for whom they are therefore vicariously responsible, collected five young people and transported them to Middleton School, Ware. He experienced a slight cough during the journey and decided to take a Covid 19 test as a precaution. Knowing that he was due to collect the same students at the end of the day he therefore contacted his employer and sought guidance. We add, at this point, that well known Government guidance required him to self-isolate immediately and given the vulnerability of the young people he was transporting he should have done this.

Instead, the person to whom he spoke interpreted the guidance somewhat differently and as he was not at that point experiencing certain specific symptoms instructed him to proceed with the home journey since he declared himself to be feeling fit and well, and anticipated a negative result. Unfortunately the result was positive and the driver and the young people involved – and their families and other contacts – were required to quarantine for 10 subsequent days. The Headteachers’ letter sets out, eloquently, the consequences of this for her students.

The Headteacher contacted Hertfordshire County Council (HCC) regarding the matter and as a result A2B’s contract for that particular route was terminated with immediate effect. HCC also contacted UDC as licensing authority on 7th December, but it was not until 14th December, a full week later, that A2B

notified the Council following an inspection visit that morning. Those present were reminded of the notification provisions forming part of the conditions of their licence and it was only then that they admitted what had happened.

We have read all the documents most carefully and we have listened to everything Mr Thomas has said upon behalf of his client. We have also heard, briefly, from Messrs Hudson and Flowers regarding the measures they have put in place to secure increased compliance with the Council's requirements.

The primary function of this Committee is the protection of the public and if we are in any doubt as to whether an applicant is a safe and suitable person to continue to hold a licence then our duty is clear – we should revoke the licence. In this case the children concerned, and their families are among the most vulnerable members of society. This review is about two things – a deliberate and serious breach of the Government and LEA Covid 19 protocols due to an over legalistic interpretation thereof, and though A2B did not lose all their Hertfordshire contracts as it was a first offence, we repeat, once more that they took a deliberate risk.

The second issue is compliance with Condition 7 of the Council's Private Hire Operators Conditions of Licence, which states:

*“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” (Emphasis added)*

This is a case where officers found out. The operator did not self-report and when their attention was drawn to their own complaints policy, which defines a complaint as “any expression of dissatisfaction” A2B had to accept that the immediate termination of their contract in respect of Middleton School could not be construed as anything but that. We understand they have now made changes in how they record matters of concern and are now employing both a Contracts Officer and a Compliance Officer, and the two functions will therefore not be conflated in the future. This failure to report to the Licensing Authority is considered a very serious breach of the operator licence. In addition, the failure to respect their own policy raises concern about the management control within the company.

We have been taken at length through the documents before us and note Messrs Hudson and Flowers contrition. We have thought long and hard about our decision and have debated it most anxiously. The reporting requirement is within two working days and it took a pointed inquiry in the course of a routine inspection before A2B admitted what had happened. We repeat, UDC had to find out and enquire of A2B; we were not told. This incident could have had serious public health consequences and we had to discover it from the LEA.

In arriving at our decision, we have taken into account the number of people who will be affected by it. Vulnerable children and their families. School communities.

Hertfordshire County Council. Last, but not least we consider the innocent employees of this company. We regard the driver involved to have been punished enough by quarantine and have listened to what Messrs Hudson and Flowers have had to say regarding the future.

Very many people depend upon what we decide today, and we also know that A2B has every possible incentive to keep the promises made to us today. Even the suspension of an operators' licence during the school holidays could very easily have a domino effect as the education authorities with whom A2B have contracts learn what has happened. It is in their interests to improve and we believe that they know this and will make good on their promises. It is for this reason that we do not propose to revoke the operators' licence for A2B Contract Cars Ltd. However, the breach was so serious and so severe that it cannot go unsanctioned and so the directors will receive a formal letter of reprimand from the Chair of this Committee. This will be separate and distinct from the decision notice, which will be sent to Mr Thomas as agreed with our Legal Adviser, and will be sent directly to A2B.

On balance we believe that the appearance before us today and the knowledge that an LEA is aware they have been found wanting is punishment enough. We trust that the steps taken to ensure there will not be a repeat incident are firmly embedded in the culture of the company. The matter is therefore closed but we do not expect to see A2B before us ever again.

# Agenda Item 3

**Committee:** Licensing and Environmental Health Committee

**Date:**  
13<sup>th</sup> July 2021

**Title:** Updated Policy relating to the Hackney Carriage and Private Hire Trades

**Report Author:** Russell Way, Licensing and Compliance Manager

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## Summary

1. The purpose of this report is to inform Members of the Licensing and Environmental Health Committee of the following proposed amendment to the Hackney Carriage and Private Hire Trade Policy (May 2021 version).

## Recommendation

2. It is recommended that Members note the contents of this report.

## Financial Implications

3. There are no cost implications to the Council in undertaking this legal duty.

## Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection.
  - Appendix A – Current Taxi and PHV Policy as approved in May 2021
  - Appendix B – Current Taxi and PHV Policy 2021 V2 with amendment (Chapter 5)

## Impact

5.

Communication/Consultation	This report is intended to assist Members and the public understand the Council's policy and approach to licensed vehicles, drivers and operators.
Community Safety	It is hoped that in ensuring that there is one up to date document it will provide clarity for Members and the public. Community safety and public safety is the key driver in all our policy decisions
Equalities	N/A

Health and Safety	N/A
Human Rights/Legal Implications	This document has now been updated to incorporate changes that have been made from May 2021 onwards.
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

## Situation

6. The current Licensing Hackney carriage and Private Hire Trades Policy was approved in May 2021 – Appendix A
7. At the May Committee meeting the following policy was agreed:
  - Exemption from the requirement to exhibit a private hire plate
8. This change replaces the content of Chapter 5 of the May policy to create an up to date policy document dated May 2021 V2 - Appendix B.
9. To aid reading, the only section and paragraphs that have been replaced are Chapter 5, Paragraphs 5.1 to 5.17.

## Risk Analysis

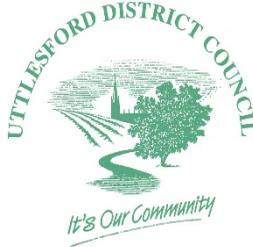
Risk	Likelihood	Impact	Mitigating actions
2 = Some risk or impact – action may be necessary.  There is a need for the council to ensure its policy is up to date and clear.	2 = Some risk or impact – action may be necessary.	2 = Some risk or impact – action may be necessary.	2 = Some risk or impact – action may be necessary.

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.



# LICENSING POLICY OF UTTLESFORD DISTRICT COUNCIL RELATING TO THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADE

Last revision: 03/21

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## **1. Introduction**

- 1.1. The law relating to the hackney carriage and private hire trades is largely contained in two statutes, the Town Police Clauses Act 1847 which is exclusively concerned with hackney carriages and the Local Government (Miscellaneous Provisions) Act 1976 which deals with both the hackney carriage and private hire trades. The object of the legislation is to ensure the safety and wellbeing of the public.
- 1.2. The power to regulate the private hire trade under the 1976 Act is adoptive. The Council resolved to adopt those powers in 1992 and has regulated the private hire trade since.
- 1.3. Under the legislation the Council is responsible for licensing hackney carriages and private hire vehicles, drivers of those vehicles and operators of private hire vehicles.
- 1.4. The aim of this policy is to set out the approach the Council will take in dealing with the grant of licences; the Council's conditions and the approach taken with regard to enforcement of conditions and the legislation.
- 1.5. Licences can take up to 28 days to be processed once all documentation relating to the application has been submitted.

## **2. Licensing of Drivers**

- 2.1. The Council has a duty to grant a driver's licence to anyone who applies for a licence who holds a full driving licence (or is otherwise authorised to drive under the Road Traffic Act 1988). The licence or authorisation must have been held for at least 3 years at the time of application. However the Council must not grant a licence unless it is satisfied that the driver is a fit and proper person to hold such a licence.

2.2 Uttlesford District Council issue two driver's licences

- A Private Hire Drivers Licence – this means the driver can only drive Private Hire Vehicles
- A combined Hackney Carriage and Private Hire (combined) drivers licence. This allows drivers to drive both Private Hire Vehicles and Hackney Carriages.

Please note the drivers of these licences must pass the routes and knowledge test at the compulsory Uttlesford Training Day which will be introduced in Spring 2021

2.3. In determining whether someone is a fit and proper person councils are entitled to have policies. Uttlesford District Council's Suitability Policy can be found in Appendix I. It sets out the standards expected of those who apply for, or hold, licences to drive hackney carriages and/or private hire vehicles.

24. The policy is not binding upon the Council. However applicants who do not meet all the licensing standards will only be granted a licence if there are good grounds for departing from the Council's policy. The burden of proof is upon the applicant to satisfy the Council that he or she is a fit and proper person.

2.5 The fact that someone meets the licensing standards is not a guarantee that a licence will be granted. There may be reasons why an applicant may be considered not to be a fit and proper person even though he or she meets licensing standards. Conversely there will be cases where someone does not meet the licensing standards but nevertheless the Council is satisfied that he or she is a fit and proper person so that a licence can be issued. Each case is decided upon its merits. Where an applicant does not meet the Council's

medical standards the application will be considered on a risk basis and a licence may be granted if the Council is satisfied that the applicant will be safe to drive.

2.6.

An enhanced DBS check shall be undertaken upon application (either new or renewal) and all currently licensed drivers will at the point of renewal be required to subscribe to the DBS Update Service within the specified timescale of receiving their DBS Certificate. Periodically, officers of the Council will undertake an online check of the DBS Update Service in order to check the driver's current status. Depending on what is revealed from the online status check, the Council may require an additional DBS check to be undertaken. All licensed drivers will be required to renew their subscription to the DBS Update Service on an annual basis, before their current subscription ends, should they wish to continue to hold an Uttlesford Council issued driver's licence. Where an individual fails to maintain and/ or renew their subscription before it ends then they will be required to apply for a new Enhanced DBS Check and register for the Update Service again. Licensed drivers will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.

2.7. The Environmental Health Manager (Commercial) or their nominee has delegated authority to grant licences where applicants meet the Council's licensing standards. However there will be occasions when it is felt that the decision would be better taken by Members (e.g. the number or nature of spent convictions; police intelligence revealed by the enhanced DBS check; false statements made by an applicant on the application for the licence etc.). In such cases the application may be

referred to the Licensing and Environmental Health Committee for determination.

- 2.8 The Environmental Health Manager (Commercial) or their nominee, in consultation with the Council's Legal Advisor and the Chair of the Licensing and Environmental Health Committee, has delegated authority to refuse a licence when the applicant does not meet the Council's licensing standards. The Environmental Health Manager (Commercial) or their nominee can grant a licence in such cases but only if they consider the circumstances are such that an exception to policy should be made. The Environmental Health Manager (Commercial) or their nominee may also choose to refer the application to the Licensing and Environmental Health Committee for determination.
- 2.9 The Environmental Health Manager (Commercial) or their nominee may refer a driver or operator to the Committee at any time for the Committee to consider the revocation of a licence where in the opinion of the Environmental Health Manager (Commercial) or their nominee there are grounds to consider that the driver may no longer be a fit and proper person. The Environmental Health Manager (Commercial) or their nominee may take such action notwithstanding the fact that the driver meets the licensing standards set out in the Suitability Policy.
- 2.10 Where a decision is taken to grant or refuse an application for a licence which is contrary to the Council's policy clear reasons for that decision will be given in writing.
- 2.11 Where applications for licences are refused the applicants have a right of appeal against that decision to the Magistrates Court. Details of the appeal procedure will be given to unsuccessful applicants along with the written notice of the decision but for the avoidance of doubt, it should be made clear that in the case of a refusal the Court has no power to grant a licence.
- 2.11 The Council may search public databases to assist in determining whether applicants are fit and proper persons to hold a licence. They

will upload data to the same databases and share information when appropriate and lawful to do so – (See Appendix G)

2.12 All new applicants must have held a full UK driving licence for 3 years. at the time of application. They also are required to pass the Council's approved driving test – Appendix K

2.13 Once available all drivers must pass an Uttlesford training day before being granted a licence.- Appendix L

Once available the training day must be taken

- before a licence is granted (either on first application or upon renewal)
- or within a specified time frame

### **3 Licensing of Operators**

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

3.2. The only qualification required for a private hire operator is that the Council must be satisfied that he, she is a fit and proper person to hold such a licence. For the avoidance of doubt, an operator's licence can be held by a body corporate, ie a company or partnership. Again the Council has a Suitability Policy to guide it in its determination as to whether an applicant is fit and proper person to hold a licence. **See Appendix I**

3.3. The standards for operators are not as stringent as are those for drivers. The policy does not take into account conditional discharges after they are deemed spent (whereas for drivers a conditional discharge will be taken into consideration even if spent for 12 months after the date of sentence) or cautions.

This is an acknowledgment of the fact that the Council is not entitled to request an enhanced DBS check for operators. Only a basic check is required which will not reveal spent convictions or cautions. If the applicant is a limited company or partnership all directors or partners must undergo a basic check. It is highly unlikely therefore that spent convictions would come to the attention of the Council. However if such matters were to come to light the Council could have regard to them in determining whether the applicant was a fit and proper person and for the avoidance of doubt this is most likely to happen if a director or partner is also seeking to be licensed to drive.

34. The Standards for operators also ignore an individual applicant's driving record. This is because the driving record of an operator does not impact upon his or her suitability as an operator of vehicles and drivers. The exception to this policy is for offences of driving or using a vehicle without insurance. As the operator is primarily responsible for ensuring that vehicles he or she operates are properly insured the Council takes the view that a conviction for such an offence goes to the issue as to whether that person can be said to be a fit and proper to hold an operator's licence. However, if an operator also wishes to act as a driver then he or she would need to obtain a driver's licence and on that application would need to meet the Licensing Standards - Drivers.
35. Paragraphs 2.3 - 2.8 above apply to operators' licences in the same way as they apply to drivers' licences.

#### **4. Licensing of Vehicles**

- 4.1. Unlike licences for drivers and operators (where the Council must grant a licence if certain criteria are met), the grant of a licence for a vehicle is discretionary.
- 4.2. The Council has a suite of policies pertaining to the types of vehicles which it is prepared to license - Licensing Standards - Hackney Carriages and Licensing Standards - Private Hire

Vehicles which are attached at Appendices C , D, H and J. Whilst every case will be determined on its merits it is unlikely that the Council would license a vehicle which did not meet its Licensing Standards. Where a vehicle proprietor wishes to license a vehicle which does not meet the standards he or she will be encouraged instead to put forward a case for modification of the Standards. The Council has in the past agreed to modify its standards to permit licensing of vintage cars, stretch limousines, smaller vehicles for school contract use only and Smart Cars.

- 4.3 In addition to the Licensing Standards for Hackney Carriage and Private Hire Vehicles, following the decision in *R. (on the application of Newcastle City Council) v Berwick-upon-Tweed BC* it is the policy of the Council not to license any hackney carriage which will not be used predominantly in the District of Uttlesford. The authority also requires these annual declarations plus a V5 document upon renewal.
- 4.4 Proprietors of vehicles have a right of appeal against a refusal of a vehicle licence. Details of the appeal procedure will be given to unsuccessful applicants with the notice of the decision to refuse the grant of a licence.
- 4.5 The Council's policy is not to allow the dual licensing of private hire and hackney carriage vehicles as this leads to confusion as to which authority is regulating the vehicle. As a result if a vehicle is found to be licensed by another authority then the Uttlesford vehicle licence will be suspended with immediate effect.
- 5 Exemption from the requirement to exhibit a private hire plate**
- 5.1 s.75 (3) of the 1976 Act empowers the Council to exempt private hire vehicles from displaying the licence plate issued by the Council in certain circumstances. This statutory power does not extend to hackney carriages which must display their plates at all times.

- 5.2. The Council recognises that there is a specialist market for the use of unmarked vehicles. Broadly speaking there are two categories of customer in this market, namely customers who wish to give the appearance of using a chauffeur driven car and not a private hire vehicle, and customers who require an unmarked vehicle for security reasons.
- 5.3. The Council will consider written applications in the prescribed form and subject to the payment of a fee from proprietors of private hire vehicles for exemption from the requirement to display a licence plate. In determining such applications the Council will have regard to this policy but shall not be bound by it and shall be prepared to grant exemptions in appropriate cases where the provisions of this policy are not met.
- 5.4. The Council acknowledges that there may be some vehicles licensed by it which have been granted historic exemptions which do not now meet these policy criteria. On the renewal of the vehicle licence of any such vehicle licensed by the Council which immediately prior to renewal had the benefit of an exemption, then subject to the submission of a completed application and payment of the appropriate fee the Council will grant an exemption which will last as long as that vehicle is licensed by that proprietor whether or not the vehicle accords with this policy.
- 5.5. Subject to paragraph 5.4 above exemptions will only be granted in respect of executive/prestige/high specification vehicles such as Mercedes Benz S class, E class, V class and Viano, BMW 5 and 7 Series, Jaguar, Rolls Royce, Bentley, Lexus, Audi 6 and 8, Tesla or other similar types of vehicles.
- 5.6. Exemptions once granted shall, unless revoked or surrendered, continue for as long as the proprietor of the vehicle licences it as a private hire vehicle with the Council.
- 5.7. In addition to the standard conditions applicable to private hire vehicles the following conditions shall apply to private hire

vehicles which are exempted from the requirement to display a plate and where there is any inconsistency between the standard conditions and these conditions then these conditions shall prevail:-

5.7.1. No logos, advertisements or devices shall be displayed in or on the vehicle which may indicate that the vehicle is a private hire vehicle or which promotes or identifies the proprietor of the vehicle or any company, firm or person using the vehicle, without the prior written consent of the Council.

5.7.2. The licence plate issued in respect of the vehicle, the letter of exemption and the licence badge of the driver of the vehicle must all be kept in the vehicle in a position where they are not readily visible at all times and must be produced to a Council officer, police officer or passenger immediately upon request.

5.7.3. Drivers shall when conveying passengers wear a chauffeur's uniform or a business suit and tie or comply with such other dress code as shall have been agreed in advance with the client.

5.7.4. The vehicles shall only be used for executive work or such other work as shall have been previously approved in writing by the Council.

58. An exemption in respect of any vehicle may be surrendered by the proprietor at any time by returning the exemption letter to the Council.

59. An exemption in respect of any vehicle may be revoked by the Environmental Health Manager (Commercial) or their nominee in the event of a serious or persistent breach of the conditions of the licence.

Where an exemption is revoked but the vehicle licence is not revoked then the proprietor may appeal against that decision to the Licensing and Environmental Health Committee as there is no right of appeal to the Magistrates Court against a revocation of an exemption. An appeal must be in writing and delivered to the Council within 21 days of the date upon which the proprietor of the vehicle is deemed to have been served with notice of revocation (2 working days after the notice is sent). The revocation shall not take effect during this period and if an appeal is made within that time the revocation will not take effect until such time as the Committee has considered the appeal.

## **6 Conditions**

- 6.1. The legislation gives local authorities power to impose conditions on licences for all vehicles, operators and private hire drivers. The Council has adopted the following conditions:

Licence Conditions - Hackney Carriage Vehicles: Appendix B.

Licence Conditions - Private Hire Vehicles: Appendix C.

Licence Conditions – Drivers: Appendix D.

Licence Conditions – Operators: Appendix E.

- 6.2. These conditions do not replicate the legislation. Drivers, operators and proprietors are expected to know the law as it relates to them and to observe it. Although not set out in the licence conditions licence holders should be aware that there are a number of offences which can be committed and will be dealt with in accordance with the Council's policy with regard to enforcement set out at paragraph 6 below. These offences include:-

- 6.2.1. Using unlicensed vehicles
- 6.2.2. Plying for hire (unless a hackney carriage)
- 6.2.3. Using unlicensed drivers (for operators and proprietors)
- 6.2.4. Failing to display the licence plate on the vehicle
- 6.2.5. Failing to produce a vehicle for inspection when required to do so (for proprietors)
- 6.2.6 Failing to notify the council that a licensed vehicle has been involved in an accident within 72 hours (for proprietors)
- 6.2.7. Failing to produce a licence for inspection when requested to do so
- 6.2.8. Failing to wear a driver's badge
- 6.2.9. Failing to keep records of bookings of private hire vehicles (for operators)
- 6.2.10. Giving the Council false information or omitting to give material information on an application for a licence (including an application to renew)
- 6.2.11. Failing to return a driver's badge upon request on the suspension, revocation or non-renewal of a licence
- 6.2.12. Failing to carry an assistance dog for a disabled passenger without making an extra charge for doing so
- 6.2.13. Overcharging (for hackney carriages)
- 6.2.14. Failure to display no smoking signs in vehicles
- 6.2.15. Smoking in workplace vehicles

## **7. Enforcement**

- 7.1. The Council expects the legislation relating to the hackney carriage and private hire trades and the conditions attached to licences to be observed and will take action in respect of any breaches. Drivers or operators who cease to meet the Council's Licensing Standards are likely to have their licences revoked.

- 7.2. The Council takes a view that these approaches are generally not suited to the hackney carriage and private hire trades. Whilst Council officers are always willing to give general advice and assistance upon request it is not the role of the Council to provide detailed training to members of the trade in this way. Drivers, operators and proprietors are expected to know the law applicable to them and the conditions attached to their licences. Ignorance of the law is no defence and where there is a breach of the law or licence conditions, education and training are not an appropriate sanction. Equally where there has been a breach by a licence holder a negotiated compliance option would not be appropriate.
- 7.3. The policy of the Council therefore is that where there is a breach of the legislation or of a condition there should normally be a sanction imposed. A sanction should be a deterrent to the licence holder and others in the trade to ensure such conduct is not repeated and the law specifically permits sanctions to be imposed at a level intended to have a deterrent effect upon others.
- 7.4. The Environmental Health Manager (Commercial) or their nominee has delegated power to suspend the licence of a driver for up to 14 days where there has been a breach of condition or there has been an allegation of an offence and in the opinion of the Environmental Health Manager (Commercial) or their nominee a prosecution would not be appropriate.
- 7.5. Without prejudice to the delegated powers and discretion of the Environmental Health Manager (Commercial) or their nominee above it is nevertheless the policy of the Council that where the matter complained of constitutes a criminal offence then the offender should usually also be the subject of a formal caution or prosecution and that a suspension would only be given as an alternative when there are exceptional mitigating circumstances.

- 76 With regard to breaches of condition attached to drivers' licences the Council consider that a suspension of the licence is generally an appropriate sanction. The Council notes with concern that prior to the adoption of this policy suspensions did not appear to have had a deterrent effect.
- 7.7 Suspensions will be dealt with in accordance with the Council's Protocol for Dealing with the Suspension, Revocation and Non-Renewal of Driver's Licences which is attached at Appendix F. However without fettering the discretion of the Environmental Health Manager (Commercial) or their nominee or the Licensing and Environmental Health Committee to impose a longer or shorter suspension if the circumstances of a particular case require, it the policy of the Council is that the starting point for a suspension for a first case of a breach of condition should be 5 days.
- 78 Where a driver has breached a condition on 2 occasions within a 3 year period or has been convicted of an offence (but his licence was not revoked as a result of such conviction) any further breach of condition should be referred to the Licensing and Environmental Health Committee or their nominee to determine whether they on behalf of the Council are satisfied that the driver remains a fit and proper person to hold a licence, or whether that licence should be revoked. On such a reference the Committee may take no action, suspend the licence or revoke it.
- 79 With regard to operators the Council recognises that the suspension of an operator's licence, even for a short period of time, is likely to be disproportionate. It is also likely to impact upon innocent parties as the effect of a suspension of the operator's licence is to deprive the drivers working for that operator of an income for the period of the suspension. The Council's policy is

therefore that where an operator has committed an offence a suspension should not be imposed and a prosecution should be brought even for a first offence.

- 7.10 Vehicle licences can be suspended or revoked on the grounds that the vehicle is unsafe or unfit; that the proprietor has committed an offence under the legislation, or for any other reasonable cause.
- 7.11 Vehicle licences will be suspended if they are unfit for use. If the vehicle is not put back into proper condition within the time specified in the suspension notification, then the licence will be revoked.
- 7.12 Without prejudice to the general scope of the power, a vehicle licence may be suspended, revoked or not renewed for any other reasonable cause. A non-exhaustive list of examples include where the Council has evidence to suggest that a hackney carriage is being predominantly used outside of the district, an exempt vehicle is not being used for the purposes set out in the exemption, or if a private hire vehicle is not being controlled by a licensed operator.
- 7.13. With regard to drivers, operators and proprietors, where a matter has been dealt with through the criminal justice system it is the view of the Council that a suspension of the licence would rarely be suitable. Any penalty to which the offender is subject will have been imposed by the Courts and a further penalty by way of suspension (which would cause loss of income) would be inappropriate. However the Licensing and Environmental Health Committee should consider whether in the light of a conviction or a caution the driver, operator or proprietor remains a fit and proper person to hold a licence. If the Committee is not satisfied that the driver, operator or proprietor remains a fit and proper person then the licence should be revoked. For offences committed by proprietors the Committee should consider whether

as a result of the conviction the vehicle licence should be revoked for any other reasonable cause.

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

## **8 Accountability**

- 8.1. The Council wishes to be transparent in the application of this policy and in particular with regard to enforcement action taken under it.
- 8.2. The Environmental Health Manager (Commercial) or their nominee will report on the number of cases in which he has exercised his delegated powers to suspend licences and the outcome in those cases at each meeting of the Licensing and Environmental Health Committee. Generally these reports will be in writing and all reports will be minuted.
- 8.3. Cases dealt with by the Licensing and Environmental Health Committee may be held in private or public. The Committee is subject to the Council's Access to Information Rules which permit the exclusion of the press and public when matters relating to an identifiable individual are discussed. Where the press and public are excluded the officer's reports are not published or otherwise accessible to the public.

84. Although the exemption can be applied it should only be used when the public interest in applying the exemption outweighs the public interest in making the information available. The Council's view is that the public have a clear interest in knowing the type of person which it is prepared to licence. Against that however individuals have rights under the Data Protection Act 1998 (no longer in place) and individuals and companies have rights under the Human Rights Act 1998. These conflicting interests need to be balanced. In general where information is already in the public domain the cases will be dealt with at a public meeting of the Committee. There will however be cases where the right to privacy is more important than the public interest in knowing the type of person the Council may licence. Examples are where the Committee is considering suspension or revocation of a licence on medical grounds or where publication of the report would involve disclosure of spent convictions or police intelligence. In such cases the press and public will be excluded from the meeting. In such circumstances whilst the report will not be published minutes of the meeting giving details of the case, the decision and the reasons for it will be published but the driver's name will not be given.
85. Where a meeting to consider individual cases is held in public the press and public will be excluded under the Access to Information Rules while the Committee considers its decision but will be re-admitted when the decision is announced.

**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 E7; or a Smart Car (Private Hire Only).
- 2) Must comply with the Vehicle Emissions policy. See Appendix H
- 3) Must be right hand drive.<sup>1</sup>
- 4) Must be standard manufacturers colour.
- 5) 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

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<sup>1</sup> Left-hand drive vehicles will not be suitable for licensing on safety grounds. They will generally require front-seat passengers to step into the roadway to enter or exit the vehicle and the driver of a left hand drive vehicle is not in the ideal position for either pulling out or overtaking safely.

seats, for example in the boot, the decision to licence these for passengers will be made on a case by case basis.

- 6) To carry a manufacturer supplied or approved spare/space saver wheel, manufacturers approved temporary repair kit or to have run flat tyres.
- 7) To be fitted with an internal rear-view mirror.
- 8) To be fitted on both sides with external rear-view mirrors.

Must have dashboard and door signs displayed inside the vehicle and on the outside of the vehicle – Appendix J

## APPENDIX B

### 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](mailto:licensing@uttlesford.gov.uk) or 01799 510510 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) or their nominee 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 monthly 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 convictions recorded against him/her or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction along with the company itself.
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.

## APPENDIX C

### 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](mailto:licensing@uttlesford.gov.uk) or 01799 510510 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) or their nominee 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 monthly 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.

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

## APPENDIX D

### 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;
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 convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the drivers licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice.
  - d. Any investigations being carried out into the activities of the driver by the police or a regulatory authority of which the driver is aware within 7 days of the driver becoming aware of the investigation.
  - e. Any damage caused to a licensed vehicle or any accident the driver may have been involved in whilst in charge of a licensed vehicle within 72 hours of the damage or accident occurring
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

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21. The driver shall when hired to drive to any particular destination proceed to such destination by the shortest possible route unless otherwise agreed by the customer

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

## APPENDIX E

### 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 (for example, via App, Telephone, Email, etc.)
  - d) The start point of the journey and the agreed 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 24 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 authorised officer of the authority or a Police Officer within 24 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.
6. 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.

7. 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.
8. 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.
9. Upon request from the licensing authority 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.
10. Upon request from the licensing authority 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.
11. The operator is required to ensure that all persons that have access to their records, bookings and 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.

12. Persons with access to operator's records, bookings and contracts, whether directly employed or otherwise, must satisfy the suitability standards that the authority applies to applicants for Private Hire Operator's licences. The operator is to keep records of such checks.
13. 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 for.

**OPERATORS WHO FAIL TO COMPLY WITH THESE  
CONDITIONS MAY HAVE THEIR LICENCE SUSPENDED OR  
REVOKED**

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

## **Introduction**

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

## **Any other reasonable cause**

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

- Where information comes to light which suggests that had the information been known at the time of application, a licence would not have been granted or renewed.
- Where a driver ceases to meet the council's licensing standards.
- Where the driver has breached a condition of his or her driver's or vehicle licence.
- Where the driver has committed a minor offence for which he or she is not prosecuted.

- Where information comes to light which suggests that the driver may no longer be a fit and proper person to hold a licence.

## Appeals

Whenever a decision is taken to suspend, revoke or not to renew a licence or where conditions are imposed upon a licence that the applicant has a right of appeal to the magistrates' court<sup>2</sup>. Normally a decision to suspend, revoke or not to renew a licence takes effect 21 days after the driver has been given notice of the decision. A driver may continue to drive during that period and if he or she lodges an appeal within that time may continue to drive until such time as the appeal has been disposed of or has been abandoned. However when a licence is suspended or revoked and it appears to the council that the interests of public safety require the suspension or revocation to have immediate effect and notifies the driver accordingly, then whilst the driver may still appeal, he or she may not drive once he or she has been notified of the decision.

## Delegated Powers

The Environmental Health Manager (Commercial) or their nominee and those authorised by him have delegated powers to deal with certain types of case. These are as follows:

- 1) When the Environmental Health Manager (Commercial) or their nominee in consultation with an Uttlesford Legal Advisor and Chair of the Licensing and Environmental Health Committee believes that a licence should be suspended with immediate

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<sup>2</sup> Drivers have the right of appeal to the Magistrates Court against Uttlesford District Council's decision to refuse/revoke to grant a HC/PHV driver's licence. However, in the case of refusals or non renewals the Court does not have power to grant a licence. Only a licensing authority may do so. All the Court is able to do is review the Council's decision in the light of the Council's policies and national licensing standards, and if the Court is satisfied that the Council acted reasonably then it will dismiss the appeal. In such circumstances the Council would be entitled to an order for costs and it is our practice to seek such an order.

effect on grounds of public safety they may do so. The Environmental Health Manager (Commercial) or their nominee will arrange for a special meeting of the Licensing and Environmental Health Committee to be convened as soon as is reasonably practicable for the purpose of determining whether the suspension should be confirmed.

The Environmental Health Manager (Commercial) or their nominee also has power to suspend licences for up to 14 days where there has been a breach of condition or where in his or her view a prosecution would be disproportionate.

- 2) The Environmental Health Manager (Commercial) or their nominee also has the power to revoke where a driver has lost their DVLA licence or is medically unfit to drive within the council's licensing standards and is unlikely to recover sufficiently to resume driving prior to the expiration of their licence. In such circumstances that power will be exercised since the driver is not legally entitled to drive.
- 3) The Environmental Health Manager or nominee can in consultation with an Uttlesford Legal advisor and with the Chair of the Licensing and Environmental Health Committee can revoke a licence with immediate effect if they receive information that questions a driver's status as to being a 'fit and proper' person.

Any other decisions concerning the revocation, suspension or non-renewal of a driver's licence must be referred to the Licensing Committee. In addition, the Environmental Health Manager (Commercial) or their nominee may refer cases at his discretion to the Committee instead of dealing with them under his delegated powers.

### **Procedure - Decisions under delegated powers**

Where the Environmental Health Manager (Commercial) or their nominee is considering exercising his delegated powers the following procedure will apply:

- 1) The Environmental Health Manager (Commercial) or their nominee or those authorised by him will write to the driver requesting that he or she make an appointment to meet with the relevant authorised officer. The letter will contain the following:
  - a) Details of the allegations which have been made against the driver or other matters which may lead to the suspension of his licence.
  - b) A statement that the authorised officer may consider suspending the driver's licence for up to 14 days.
  - c) A statement that the driver may be accompanied by his or her operator, a trade union representative or a friend.
  - d) A statement that in the event that the authorised officer decides to suspend the licence that there is a right of appeal.
- 2) The meeting between the authorised officer and the driver and his or her representative (if present) shall take the form of a discussion within which the authorised officer will seek the driver's comments upon the allegations made against him or her. If the authorised officer considers it necessary to make further enquiries he will explain this to the driver and adjourn the meeting to enable such enquiries to be made. In the event that following such enquiries the authorised officer decides that no further action is required (or that the only action which may be required is that which has been discussed with the driver at the meeting) then the authorised officer will write to

the driver accordingly. In any other case the authorised officer will reconvene the meeting.

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

suspension will be effective in the event that an appeal is not lodged.

- 6 Members of the Committee will be notified at ordinary meetings of the suspensions undertaken by authorised officers.

### **Procedure - Decisions by the Licensing Committee**

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

- 1) 3 members of the Licensing Committee will be requested to attend a meeting of the Committee for the purpose of considering the allegations.
- 2) Usually, the committee meetings will be held in public although consideration of matters which would not otherwise be in the public domain (e.g. consideration of a driver's medical condition, details of spent convictions etc.) would require the committee meeting to be held in private.
- 3) The driver will be given written notice of the time and date of the committee meeting at least 10 working days prior to the meeting taking place and at the same time will be provided with a copy of the officer's report which will be presented to the committee along with any supporting documents.
- 4) The letter notifying the driver of the time and date of the meeting shall also inform him or her of his or her right to be

represented at the meeting by his or her operator, a trade union representative or a friend.

- 5) Having considered the officer's report, any evidence which the officer wishes to tender in support of his report (which shall have been disclosed in advance to the driver), any evidence from the driver, any evidence from witnesses called by or on behalf of the driver and any submissions made by the driver and/or his or her representative, the committee will retire to consider its decision and will upon returning announce its decision to the driver.
- 6) The committee shall give verbal reasons for its decision and in the event that the committee decide to suspend, revoke or not to renew a licence the lead officer of the committee shall explain to the driver his or her right to appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
- 7) As soon as is reasonably practicable after the committee meeting, the lead officer to the committee shall write to the driver confirming:
  - a. the committee's decision
  - b. any sanction imposed.
  - c. the committee's reasons for a. and b. above.
  - d. giving details of the appeal procedure and the fee payable to the court on appeal.
  - e. informing the driver of his or her right to drive during the period within which an appeal may be lodged unless the suspension is taking immediate effect on the grounds of public safety. And if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

## **Principles to be applied in decision making**

The express aims of the licensing regime are the safety and comfort of the public. Safety extends not only to fare paying passengers but also to other road users and pedestrians. When considering the grant of a licence a local authority may not grant a licence to anyone unless they are satisfied that the applicant is a fit and proper person to hold a licence. Where the committee cease to be satisfied for any reason that a driver is a fit and proper person it follows that he or she should not be in possession of a licence and in those circumstances the licence will either be revoked or not renewed on application. There will however be other circumstances where there has been some action or inaction on the part of a driver which has not rendered the driver an unfit person but nevertheless warrants a sanction both as a mark of disapproval of the driver's conduct and as a deterrent to others.

In such circumstances, a suspension of the licence would be appropriate. In determining whether to suspend a licence and if so in determining the length of suspension, regard will be had by the Licensing Committee or by the authorised officer in the exercise of delegated powers to the following factors:

- 1) Whether the driver fully admitted the matter alleged or whether he or she put forward explanations which were wholly unsustainable.
- 2) The seriousness of the matter complained of.
- 3) The driver's past history.
- 4) Any mitigation put forward by the driver or his or her representative.

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

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

### **Overarching principles**

This policy covers the use that Uttlesford District Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licences. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past. Uttlesford District Council has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

<sup>8</sup> Throughout this policy reference is made to 'taxi drivers licence.' This generic term covers a hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Uttlesford District Council will make a search of NR3. The search will only be made by an officer who has been trained in the use of NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details. Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application<sup>9</sup>.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated<sup>10</sup>. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by

way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined<sup>11</sup>. The data will be held securely in accordance with Uttlesford's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed in accordance with Uttlesford District Council's general policy on the erasure and destruction of personal data.

<sup>9</sup> The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

<sup>10</sup> Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see *The Criminal Procedure Rules R35.2*). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

<sup>11</sup> Decisions of the local authority, Magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when permission has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim first arose" (see *The Civil Procedure Rules R54.5*). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

## **II. Making a request for further information regarding an entry on NR3<sup>12</sup>**

When an application is made to Uttlesford District Council for the grant of a new, or renewed taxi driver's licence, then officers will check NR3. Officers will make and then retain a clear written record<sup>13</sup> of every search that is made of the

register.

This will detail:

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

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

If officers discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details for further information about that entry. That request will also include details of this Uttlesford's data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy.

It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

### **III. Responding to a request made for further information regarding an entry on NR3<sup>14</sup>**

When Uttlesford District Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences

granted) and will be retained for the retention period of 25 years<sup>15</sup>. Uttlesford officers will then determine how to respond to the request. It is not lawful to simply provide information as a blanket

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

<sup>12</sup> This section of the template policy relates to the submission of a request by the second authority.

<sup>13</sup> This can be electronic, rather than “pen and paper” hard copy.

<sup>14</sup> This section of the template policy relates to the handling by the first authority of a request for information by the second authority.

<sup>15</sup> This record can be combined with the written record of the action taken as a result of the request.

If Uttlesford District Council is satisfied that the other authority’s (the 2<sup>nd</sup> authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed<sup>16</sup>. This will be determined by an officer who has been trained to discharge this function. Any disclosure must be considered and proportionate, taking into account the data subjects’ rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but Uttlesford District Council will not disclose information relating to every entry. Each application will be considered on its own merits. Uttlesford District Council will disclose information relating to a revocation or refusal to grant a driver’s licence in accordance with the timescales contained within our policy on deciding the suitability of applicants and licensees in the Hackney and Private Hire Trades.

Where the reason for refusal to grant or revocation relates to a conviction which is within the timescales determined in those guidelines, the information will be disclosed.

Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy. Any information about convictions will be shared in accordance with this policy under <sup>[1]</sup>; that is, the processing is necessary

for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law. The officer will record what action was taken and why. Uttlesford District Council will make and then retain a clear written record<sup>18</sup> of every decision that is made as a result of a request

from another authority. This will detail:

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

<sup>16</sup> If Uttlesford District Council is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of Uttlesford District Council and the 2nd authority.

<sup>18</sup> This can be electronic, rather than "pen and paper" hard copy. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

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

When Uttlesford District Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications. This Council will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above). Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this Council will make in relation to the application.

## **Appendix J - information disclosure form**

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).  
*(For completion by requestor authority)*

Name of licensing authority requesting information: .....  
Requestor authority reference number: .....  
Name of licensing authority from which information is sought:  
.....  
Name of individual in respect of whom the request is made:  
.....  
Decision in respect of which the request is made: Refusal /  
revocation  
Other details for this record: .....  
Address: .....  
Driving licence #: .....  
NI #: .....  
Reference number: .....  
Declaration by requesting authority:

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

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

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

Signed:  
Name: .....  
Position: .....  
Date.....

(For completion by providing authority)

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

Declaration by providing authority

*The authority hereby confirms that it has conducted a data protection impact assessment. It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly. The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements*

Signed:

Name: .....

Position: .....

Date: .....

## **Licensed Vehicle 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 and private hire fleet, standards relating to the exhaust emissions have been introduced in addition to the requirements regarding the age of vehicles.

### **Emission Standards**

#### **First Licence Application:-**

- DIESEL vehicles must meet or exceed Euro 6 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 5 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 6 emissions standards from **01/04/2021**
- WHEELCHAIR ACCESSIBLE vehicles must meet or exceed Euro 6 emissions standards from **01/04/2025**

#### **Licence Renewal:-**

- From **01/04/2022** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 5 emissions standards
- From **01/04/2023** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 6 emission standards
- From **01/04/2025** any wheelchair accessible vehicle due for its annual licence renewal must 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 the 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** 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 of 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 will help improve the charging network and aid drivers in testing and purchasing electric vehicles

# Suitability Policy

# Appendix I

## **From the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades 2018**

“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

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 licencees 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 qualifications<sup>1</sup>. 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.

<sup>1</sup> Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence

<sup>2</sup> [2007] 1 WLR 2067

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 currently 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*<sup>2</sup>.

1.7 The otherwise good character and driving record of the subject of the decision will not be considered as exceptional circumstances.

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 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: Guidance on Determination

2.1 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.

2.2 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.

2.3 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.

2.4 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.

2.5 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.

2.6 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.

2.7 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**

2.8 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.

2.9 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.

2.10 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.

2.11 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

2.12 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

2.13 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

2.14 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

2.15 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

2.16 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**.

2.17 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

2.18 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

2.19 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.

2.20 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

2.21 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

2.22 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.

2.23 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 holders expense.

2.24 No driver will be allowed to hold a taxi drivers licence if they have 12 or more current points on their DVLA licence.

2.25 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

2.26 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.

2.27 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

2.28 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.

2.29 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

2.30 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

2.31 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**

2.32 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.

2.33 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.

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

2.35 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**

2.36 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.

2.37 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.

2.38 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.

2.39 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.

2.40 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

2.41 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**.

## Acknowledgements

This policy is based on the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades released in 2018. Uttlesford District Council would like to acknowledge the contribution made by all those involved in creating the document which helps Local Authorities to have robust policies in relation to suitability.

## Door and dashboard signs

### Interior Markings

From 2021 all new drivers will display an internal driver identification card in the vehicle on the nearside of the windscreen in an unobstructed and conspicuous position so that passengers may see it. In the case where a vehicle or vehicles have multiple drivers, the driver must remove their identification card when not driving that vehicle and place it back in the vehicle when they do. The driver shall not conceal the driver identification card from public view or deface it.

### **TEMPORARY REPLACEMENT PRIVATE HIRE VEHICLES**

The temporary replacement vehicle would have to meet all the same requirements and an identical process to licence the temporary vehicle would be followed as for a permanent change of vehicle this include the display of all door and interior signs.

***NOTE: Failure to comply with this requirement will result in the automatic suspension of the vehicle or drivers licence until such time as evidence is produced that confirms that the above has been adhered to.***

### **Specific Exemptions.**

The Local Government (Miscellaneous Provisions) Act 1976 requires that a Council must issue a private hire vehicle with a licence plate and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate as directed by the Council. The Act also gives a Council the discretion to grant a proprietor a dispensation from displaying the licence plate on their licensed private hire vehicle. Each application for a dispensation will be considered on its own merits. The overriding consideration will be public safety. The clear identification of a licensed vehicle is considered a safety aspect, particularly when visiting such places as airports, seaports and the centres of large towns.

There are some exemptions to the above as vehicles used for carrying out specific work such as executive and/or chauffeur work may be authorised not to display the Council official door stickers and licence plate on the outside of the vehicle.

Dispensations will not be granted as a matter of course. A clear case for the dispensation will have to be made by the proprietor, in writing, to the Licensing Service.

In determining an application it will normally be the status of the passenger and the executive nature of the work that will indicate whether or not the dispensation should be granted. The high quality of the vehicle being used will be supportive of an application, but will not be the sole determining factor.

## **Surrender of Licence**

If the proprietor ceases to use the vehicle for the purpose for which it is licensed they shall formally surrender the licence in writing and return the the plate and door stickers, which remains the property of Uttlesford Council.

## Current Signage

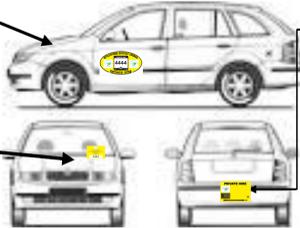
Plates and badges must be placed like this. At renewal If there is advertising already on the front driver and passenger doors then they may be placed on the rear doors. Any new licensed vehicle must have them on the front passenger and driver door as indicated

### GUIDANCE ON POSITIONING OF LICENCE PLATE, DOOR STICKERS AND LICENCE DRIVER IDENTIFICATION CARD

Door stickers shall be permanently affixed on each front door of the vehicle

Licence plate to be displayed in a vertical position and firmly fixed to the outside of the vehicle at the rear

Licence Driver identity card to be displayed in the vehicle on the nearside of the windscreen.



## Driving Proficiency Test

1. All new applicants for driving licences to be required to pass the Council's approved driving test.
2. Applicants to have held a Full UK Drivers Licence (or equivalent) for a minimum of 3 years at the time of application.
3. Licence holders whose ability to drive the public safely has been brought into question by:
  - i. the accrual of penalty points on their DVLA licence (figure stipulated in the authorities Suitability Policy); or
  - ii. another means (such as a series of complaints, etc.) to pass the Council's approved driving test within a fixed period (stipulated in the authorities Suitability policy) or face suspension of their drivers licence until such time as they successfully pass the test.

## Appendix L

### New driver training and testing

1. 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.

2. 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.

3. 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 before the course is implemented.

4. 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

5. 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 English language. The proposed content of the course to include training in the following elements but is subject to change to UDC's specification:

### **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 customer requests (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

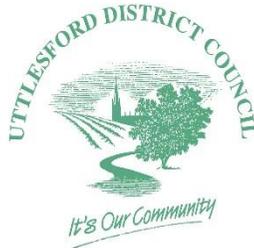
Reasonable Adjustment and what this means for drivers

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
- 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



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

This document was approved at the Environmental and Licensing Committee 10<sup>th</sup> May 2021

Proposed Amendments – which were agreed at above meeting

- V. 2 13<sup>th</sup> July 2021 – proposed amendments made to
- Section 5 paragraphs 5.1 to 5.17

Last revision: 04/21

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## **1. Introduction**

- 1.1 The law relating to the Hackney carriage and private hire trades is largely contained in two statutes, the Town Police Clauses Act 1847 which is exclusively concerned with Hackney carriages and the Local Government (Miscellaneous Provisions) Act 1976 which deals with both the Hackney carriage and private hire trades. The object of the legislation is to ensure the safety and wellbeing of the public.
- 1.2 The power to regulate the private hire trade under the 1976 Act is adoptive. The Council resolved to adopt those powers in 1992 and has regulated the private hire trade since.
- 1.3 Under the legislation the Council is responsible for licensing Hackney carriages and private hire vehicles, drivers of those vehicles and operators of private hire vehicles.
- 1.4 The aim of this policy is to set out the approach the Council will take in dealing with the grant of licences; the Council's conditions and the approach taken regarding the enforcement of conditions and the legislation.
- 1.5 Licences can take up to 28 days to be processed once all documentation relating to the application has been submitted.

## **2. Licensing of Drivers**

- 2.1 The Council has a duty to grant a driver's licence to anyone who applies for a licence, who holds a full driving licence (or is otherwise authorised to drive under the Road Traffic Act 1988). The licence or authorisation must have been held for at least 3 years at the time of application. However, the Council must not grant a licence unless it is satisfied that the driver is a fit and proper person to hold such a licence.

## 2.2 Uttlesford District Council issue two driver's licences:

- A Private Hire Driver's Licence – this means the driver can only drive Private Hire Vehicles
- A Combined Hackney carriage and Private Hire Driver's licence. This allows drivers to drive both private hire and Hackney carriages.

Please note the drivers of these licences must pass the routes and knowledge test at the compulsory Uttlesford Training Day which will be introduced in Spring 2021.

2.3 In determining whether someone is a fit and proper person, councils are entitled to have policies. Uttlesford District Council's Suitability Policy can be found in Appendix I. It sets out the standards expected of those who apply for, or hold, licences to drive Hackney carriages and/or private hire vehicles.

2.4 The policy is not binding upon the Council. However, applicants who do not meet all the licensing standards will only be granted a licence if there are good grounds for departing from the Council's policy. The burden of proof is upon the applicant to satisfy the Council that he or she is a fit and proper person.

2.5 The fact that someone meets the licensing standards is not a guarantee that a licence will be granted. There may be reasons why an applicant may be considered not to be a fit and proper person even though he or she meets licensing standards. Conversely, there will be cases where someone does not meet the licensing standards but, nevertheless, the Council is satisfied that he or she is a fit and proper person so that a licence can be issued. Each case is decided upon its merits. Where an applicant does not meet the Council's medical standards the application will be considered on a risk basis and a licence may be granted if the Council is satisfied that the applicant will be safe to drive.

- 2.6 An enhanced DBS check shall be undertaken upon application (either new or renewal) and all currently licensed drivers will at the point of renewal be required to subscribe to the DBS Update Service within the specified timescale of receiving their DBS Certificate. Periodically, officers of the Council will undertake an online check of the DBS Update Service to check the driver's current status. Depending on what is revealed from the online status check, the Council may require an additional DBS check to be undertaken. All licensed drivers will be required to renew their subscription to the DBS Update Service on an annual basis, before their current subscription ends, should they wish to continue to hold an Uttlesford Council issued driver's licence. Where an individual fails to maintain and/or renew their subscription before it ends, then they will be required to apply for a new Enhanced DBS Check and register for the Update Service again. Licensed drivers will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.
- 2.7 The Environmental Health Manager (Commercial) or their nominee has delegated authority to grant licences where applicants meet the Council's licensing standards. However, there will be occasions when it is felt that the decision would be better taken by Members (e.g. the number or nature of spent convictions; police intelligence revealed by the enhanced DBS check; false statements made by an applicant on the application for the licence etc.). In such cases the application may be referred to the Licensing and Environmental Health Committee for determination.
- 2.8 The Environmental Health Manager (Commercial) or their nominee, in consultation with the Council's Legal Advisor and the Chair of the Licensing and Environmental Health Committee, has delegated authority to refuse a licence when the applicant does not meet the Council's licensing standards. The Environmental Health Manager (Commercial) or their nominee can grant a licence in such cases but only if they

consider the circumstances are such that an exception to policy should be made. The Environmental Health Manager (Commercial) or their nominee may also choose to refer the application to the Licensing and Environmental Health Committee for determination.

- 2.9 The Environmental Health Manager (Commercial) or their nominee may refer a driver or operator to the Committee at any time for the Committee to consider the revocation of a licence where in the opinion of the Environmental Health Manager (Commercial) or their nominee there are grounds to consider that the driver may no longer be a fit and proper person. The Environmental Health Manager (Commercial) or their nominee may take such action notwithstanding the fact that the driver meets the licensing standards set out in the Suitability Policy.
- 2.10 Where a decision is taken to grant or refuse an application for a licence which is contrary to the Council's policy, clear reasons for that decision will be given in writing.
- 2.11 Where applications for licences are refused, the applicants have a right of appeal against that decision to the Magistrates Court. Details of the appeal procedure will be given to unsuccessful applicants along with the written notice of the decision, but for the avoidance of doubt, it should be made clear that in the case of a refusal the Court has no power to grant a licence.
- 2.12 The Council may search public databases to assist in determining whether applicants are fit and proper persons to hold a licence. They will upload data to the same databases and share information when appropriate and lawful to do so.  
**(Appendix G)**
- 2.13 All new applicants must have held a full UK driving licence for 3 years. at the time of application. They also are required to pass the Council's approved driving test. **(Appendix K)**

2.14 Once available all drivers must pass an Uttlesford training day before being granted a licence. **(Appendix L)**

Once available the training day must be taken.

- before a licence is granted (either on first application or upon renewal)
- or within a specified time frame

### **3. Licensing of Operators**

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

3.2 The only qualification required for a private hire operator is that the Council must be satisfied that he, she is a fit and proper person to hold such a licence. For the avoidance of doubt, an operator's licence can be held by a body corporate, i.e. a company or partnership. Again, the Council has a Suitability Policy to guide it in its determination as to whether an applicant is a fit and proper person to hold a licence. (Appendix I)

3.3 The standards for operators are not as stringent as are those for drivers. The policy does not take into account conditional discharges after they are deemed spent (whereas for drivers, a conditional discharge will be taken into consideration even if spent for 12 months after the date of sentence) or cautions.

This is an acknowledgment of the fact that the Council is not entitled to request an enhanced DBS check for operators. Only a basic check is required which will not reveal spent convictions or cautions. If the applicant is a limited company or partnership all directors or partners must undergo a basic check. It is highly unlikely therefore that spent convictions would come to the attention of the

Council. However, if such matters were to come to light the Council could have regard to them in determining whether the applicant was a fit and proper person and for the avoidance of doubt this is most likely to happen if a director or partner is also seeking to be licensed to drive.

3.4 The Standards for operators also ignore an individual applicant's driving record. This is because the driving record of an operator does not impact upon his or her suitability as an operator of vehicles and drivers. The exception to this policy is for offences of driving or using a vehicle without insurance. As the operator is primarily responsible for ensuring that vehicles he or she operates are properly insured, the Council takes the view that a conviction for such an offence goes to the issue as to whether that person can be said to be a fit and proper to hold an operator's licence. However, if an operator also wishes to act as a driver, then he or she would need to obtain a driver's licence, and on that application would need to meet the Licensing Standards - Drivers.

3.5 Paragraphs 2.3 - 2.8 above apply to operators' licences in the same way as they apply to drivers' licences.

#### **4. Licensing of Vehicles**

4.1 Unlike licences for drivers and operators (where the Council must grant a licence if certain criteria are met), the grant of a licence for a vehicle is discretionary.

4.2 The Council has a suite of policies pertaining to the types of vehicles which it is prepared to license - Licensing Standards - Hackney Carriages and Licensing Standards - Private Hire Vehicles which are attached at Appendices C, D, H and J. Whilst every case will be determined on its merits it is unlikely that the Council would license a vehicle which did not meet its Licensing Standards. Where a vehicle proprietor wishes to

license a vehicle which does not meet the standards, he or she will be encouraged instead to put forward a case for modification of the Standards. The Council has in the past agreed to modify its standards to permit licensing of vintage cars, stretch limousines, smaller vehicles for school contract use only and Smart cars.

- 4.3 In addition to the Licensing Standards for Hackney Carriage and Private Hire Vehicles, following the decision in *R. (on the application of Newcastle City Council) v Berwick-upon-Tweed BC* it is the policy of the Council not to license any Hackney carriage which will not be used predominantly in the District of Uttlesford. The authority also requires these annual declarations plus a V5 document upon renewal.
- 4.4 Proprietors of vehicles have a right of appeal against a refusal of a vehicle licence. Details of the appeal procedure will be given to unsuccessful applicants with the notice of the decision to refuse the grant of a licence.
- 4.5 The Council's policy is not to allow the dual licensing of private hire and Hackney carriage vehicles as this leads to confusion as to which authority is regulating the vehicle. As a result, if a vehicle is found to be licensed by another authority, then the Uttlesford vehicle licence will be suspended with immediate effect.

## **5. Exemption from the requirement to exhibit a private hire plate**

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 requires that a Council must issue a private hire vehicle with a licence plate and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate as directed by the Council.

- 5.2 The clear and visible identification of a licensed vehicle is considered a safety issue, particularly when visiting such places as airports, seaports and large town or city centers. Therefore the overriding consideration when determining any request for an exemption will be the impact upon public safety
- 5.3 Section 75 of the Act also gives a Council the discretion to grant a request for exemption from displaying the licence plate on a private hire vehicle which it licenses by way of written notice.
- 5.4 There are occasions when the requirement to display an external identification plate, and other signage as ordinarily required by the Council, may have a detrimental effect upon an operating business as some corporate customers may be deterred from using the service. There may also be legitimate circumstances where the identification of a vehicle as a licensed private hire vehicle could allow “high risk” passengers to be more readily targeted, resulting in the safety of both the passenger/s and the driver being placed at risk.
- 5.5 A clear case for the exemption must be made by the vehicle proprietor, in writing, to the Council. In determining such an application it will normally be the status of the passengers and the nature of the work that will indicate whether or not the exemption should be granted. The quality of the vehicle being used may be supportive of an application, but it will not be the sole determining factor.
- 5.6 A request for exemption shall only be considered for an individual vehicle and not for a fleet, and each request shall be considered on its own merits.
- 5.7 In order to apply for an exemption from the requirement to display identification plates and signs, the proprietor of the private hire vehicle must produce;

- A completed exemption application form and make payment of the appropriate fee.
- Documentation in support of the application evidencing that the vehicle carries out or is intended to carry out 'executive work'. *This is expected to include formal written contracts from companies and/or clients who for security or personal safety reasons would not want the vehicle to be identifiable, and a standard paragraph upon a booking form or other contract document supplied by the operator will not be sufficient evidence.*
- The previous three months of booking records for the relevant vehicle. (For new applications, unless for a replacement vehicle, three months of booking records must be provided after a provisional exemption has been granted).

- 5.8 When an exemption is granted, the Council will issue the vehicle proprietor with a written certificate of exemption. The certificate will impose the following additional conditions upon the vehicle licence;
- 5.9 The certificate must be retained within the vehicle at all times and the driver must produce it when requested to do so by an authorised local authority officer, Police constable, or passenger.
- 5.10 The private hire vehicle licence plate must be retained within the boot of the vehicle and the driver must produce it when requested to do so by an authorised local authority officer, Police constable, or passenger. The driver must be in possession of their private hire/hackney carriage driver badge at all times while working under the terms of the exemption and produce it when requested to do so by an authorised local authority officer, Police constable or passenger.

- 5.11 The vehicle proprietor must ensure there is no logo, advertisement or device on the vehicle interior or exterior which may lead members of the public to believe it was a taxi or private hire vehicle. This includes external door signs issued by the Council.
- 5.12 The driver must wear a chauffeur's uniform, business suit and tie or comply with such other dress code as may have been agreed in advance with the client. The exemption must only be used for executive hire work where there is a genuine need not to display the vehicle licence plate, and only as has been agreed prior by the Licensing Authority.
- 5.13 The vehicle proprietor is responsible for ensuring that the driver of the vehicle conforms to these conditions. The vehicle proprietor shall notify the Council in writing immediately of any change in use of the vehicle.
- 5.14 If the vehicle proprietor is found to be in breach of any of the conditions listed above, then the Council may revoke the exemption with immediate effect, and further action against the vehicle licence may be considered.
- 5.15 The exemption once granted shall, unless revoked or surrendered, continue for the duration of the private hire vehicle licence. This is considered to be up to and including the expiry date listed on the licence plate. In exceptional circumstances an exemption may be applied for part way through the period of an existing private hire vehicle licence.
- 5.16 The grant of such an exemption is in the sole discretion of the Licensing Manager. If the vehicles ceases to be used for the type of work set out in the exemption certificate then the vehicle proprietor must surrender the exemption by returning the written certificate to the Council if they no longer require such an exemption.

- 5.17 If the Council discovers the vehicle has been or is being used primarily for private hire work that is not considered to be 'executive hire', it may revoke the exemption with immediate effect and further action may be taken against the private hire vehicle licence, and/or private hire operator licence if both are the same person/s or company.

## 6. Conditions

- 6.1 The legislation gives local authorities power to impose conditions on licences for all vehicles, Operators and private hire drivers. The Council has adopted the following conditions:

Licence Conditions - Hackney Carriage Vehicles: **(Appendix B)**

Licence Conditions - Private Hire Vehicles: **(Appendix C)**

Licence Conditions – Drivers: **(Appendix D)**

Licence Conditions – Operators: **(Appendix E)**

- 6.2 These conditions do not replicate the legislation. Drivers, Operators and proprietors are expected to know the law as it relates to them and to observe it. Although not set out in the licence conditions, licence holders should be aware that there are a number of offences which can be committed and will be dealt with in accordance with the Council's policy with regard to enforcement set out at paragraph 6 below. These offences include:

- 6.2.1 Using unlicensed vehicles
- 6.2.2 Plying for hire (unless a Hackney carriage)
- 6.2.3 Using unlicensed drivers (for operators and proprietors)
- 6.2.4 Failing to display the licence plate on the vehicle.

- 6.2.5 Failing to produce a vehicle for inspection when required to do so (for proprietors).
- 6.2.6 Failing to notify the council that a licensed vehicle has been involved in an accident within 72 hours (for proprietors).
- 6.2.7 Failing to produce a licence for inspection when requested to do so.
- 6.2.8 Failing to wear a driver's badge.
- 6.2.9 Failing to keep records of bookings of private hire vehicles (for operators).
- 6.2.10 Giving the Council false information or omitting to give material information on an application for a licence (including an application to renew).
- 6.2.11 Failing to return a driver's badge upon request on the suspension, revocation or non-renewal of a licence.
- 6.2.12 Failing to carry an assistance dog for a disabled passenger without making an extra charge for doing so.
- 6.2.13 Overcharging (for hackney carriages).
- 6.2.14 Failure to display no smoking signs in vehicles.
- 6.2.15 Smoking in workplace vehicles.

## **7. Enforcement**

- 7.1 The Council expects the legislation relating to the Hackney carriage and private hire trades and the conditions attached to licences to be observed and will take action in respect of any breaches. Drivers or operators who cease to meet the Council's Licensing Standards are likely to have their licences revoked.
- 7.2 The Council takes a view that these approaches are generally not suited to the Hackney carriage and private hire trades. Whilst Council officers are always willing to give general advice and assistance upon request it is not the role of the Council to provide detailed training to members of the trade in this way. Drivers, Operators and proprietors are expected to know the law applicable to them and the conditions attached to their licences.

Ignorance of the law is no defence and where there is a breach of the law or licence conditions, education and training are not an appropriate sanction. Equally where there has been a breach by a licence holder, a negotiated compliance option would not be appropriate.

- 7.3 The policy of the Council therefore is that where there is a breach of the legislation or of a condition there should normally be a sanction imposed. A sanction should be a deterrent to the licence holder and others in the trade to ensure such conduct is not repeated and the law specifically permits sanctions to be imposed at a level intended to have a deterrent effect upon others.
- 7.4 The Environmental Health Manager (Commercial) or their nominee has delegated power to suspend the licence of a driver for up to 14 days where there has been a breach of condition or there has been an allegation of an offence and in the opinion of the Environmental Health Manager (Commercial) or their nominee a prosecution would not be appropriate.
- 7.5 Without prejudice to the delegated powers and discretion of the Environmental Health Manager (Commercial) or their nominee above it is nevertheless the policy of the Council that where the matter complained of constitutes a criminal offence then the offender should usually also be the subject of a formal caution or prosecution and that a suspension would only be given as an alternative when there are exceptional mitigating circumstances.
- 7.6 With regard to breaches of condition attached to drivers' licences the Council consider that a suspension of the licence is generally an appropriate sanction. The Council notes with concern that prior to the adoption of this policy suspensions did not appear to have had a deterrent effect.
- 7.7 Suspensions will be dealt with in accordance with the Council's Protocol for Dealing with the Suspension, Revocation and Non-Renewal of Driver's Licences which is attached (**Appendix F**). However, without fettering the discretion of the Environmental

Health Manager (Commercial) or their nominee or the Licensing and Environmental Health Committee to impose a longer or shorter suspension if the circumstances of a particular case require, it the policy of the Council is that the starting point for a suspension for a first case of a breach of condition should be 5 days.

- 7.8 Where a driver has breached a condition on 2 occasions within a 3 year period or has been convicted of an offence (but his licence was not revoked as a result of such conviction) any further breach of condition should be referred to the Licensing and Environmental Health Committee or their nominee to determine whether they on behalf of the Council are satisfied that the driver remains a fit and proper person to hold a licence, or whether that licence should be revoked. On such a reference the Committee may take no action, suspend the licence or revoke it.
- 7.9 With regard to operators the Council recognises that the suspension of an operator's licence, even for a short period of time, is likely to be disproportionate. It is also likely to impact upon innocent parties as the effect of a suspension of the operator's licence is to deprive the drivers working for that operator of an income for the period of the suspension. The Council's policy is therefore that where an operator has committed an offence a suspension should not be imposed, and a prosecution should be brought even for a first offence.
- 7.10 Vehicle licences can be suspended or revoked on the grounds that the vehicle is unsafe or unfit; that the proprietor has committed an offence under the legislation, or for any other reasonable cause.
- 7.11 Vehicle licences will be suspended if they are unfit for use. If the vehicle is not put back into proper condition within the time specified in the suspension notification, then the licence will be revoked.

- 7.12 Without prejudice to the general scope of the power, a vehicle licence may be suspended, revoked or not renewed for any other reasonable cause. A non-exhaustive list of examples would include where the Council has evidence to suggest that a Hackney carriage is being predominantly used outside of the district, an exempt vehicle is not being used for the purposes set out in the exemption, or if a private hire vehicle is not being controlled by a licensed operator.
- 7.13 With regard to drivers, Operators and proprietors, where a matter has been dealt with through the criminal justice system it is the view of the Council that a suspension of the licence would rarely be suitable. Any penalty to which the offender is subject will have been imposed by the Courts and a further penalty by way of suspension (which would cause loss of income) would be inappropriate. However, the Licensing and Environmental Health Committee should consider whether in the light of a conviction or a caution the driver, operator or proprietor remains a fit and proper person to hold a licence. If the Committee is not satisfied that the driver, Operator or proprietor remains a fit and proper person then the licence should be revoked. For offences committed by proprietors the Committee should consider whether as a result of the conviction the vehicle licence should be revoked for any other reasonable cause.
- 7.14 Where there is or has been an investigation into the conduct of a driver, operator or proprietor which has not resulted in a formal caution or conviction the licence may nevertheless be suspended, revoked or not renewed if there are reasonable grounds for doing so. The Council is subject to a lower standard of proof (the balance of probabilities) than the criminal courts (beyond reasonable doubt) when dealing with factual issues. Where the fitness of a driver or operator is called into question the burden of proof is upon the licence holder to establish that he or she is a fit and proper person.

## **8.0 Accountability**

- 8.1 The Council wishes to be transparent in the application of this policy and in particular with regard to enforcement action taken under it.
- 8.2 The Environmental Health Manager (Commercial) or their nominee will report on the number of cases in which he has exercised his delegated powers to suspend licences and the outcome in those cases at each meeting of the Licensing and Environmental Health Committee. Generally, these reports will be in writing and all meetings will have Minutes.
- 8.3 Cases dealt with by the Licensing and Environmental Health Committee may be held in private or public. The Committee is subject to the Council's Access to Information Rules which permit the exclusion of the press and public when matters relating to an identifiable individual are discussed. Where the press and public are excluded, the officer's reports are not published or otherwise accessible to the public.
- 8.4 Although the exemption can be applied it should only be used when the public interest in applying the exemption outweighs the public interest in making the information available. The Council's view is that the public have a clear interest in knowing the type of person which it is prepared to licence. Against that however individuals have rights under the Data Protection Act 1998 (no longer in place) and individuals and companies have rights under the Human Rights Act 1998. These conflicting interests need to be balanced. In general, where information is already in the public domain the cases will be dealt with at a public meeting of the Committee. There will however be cases where the right to privacy is more important than the public interest in knowing the type of person the Council may licence. Examples are where the Committee is considering suspension or revocation of a licence on medical grounds or where publication of the report would involve disclosure of spent

convictions or police intelligence. In such cases the press and public will be excluded from the meeting. In such circumstances, whilst the report will not be published minutes of the meeting giving details of the case, the decision, and the reasons for it will be published but the driver's name will not be given.

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

**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 E7; or a Smart Car (Private Hire Only).
  
- 2) Must comply with the Vehicle Emissions policy. **(Appendix H)**
  
- 3) Must be right hand drive.<sup>1</sup>
  
- 4) Must be standard manufacturers colour.
  
- 5) 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

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<sup>1</sup> Left-hand drive vehicles will not be suitable for licensing on safety grounds. They will generally require front-seat passengers to step into the roadway to enter or exit the vehicle and the driver of a left hand drive vehicle is not in the ideal position for either pulling out or overtaking safely.

seats, for example in the boot, the decision to licence these for passengers will be made on a case-by-case basis.

- 6) To carry a manufacturer supplied or approved spare/space saver wheel, manufacturers approved temporary repair kit or to have run flat tyres.
- 7) To be fitted with an internal rear-view mirror.
- 8) To be fitted on both sides with external rear-view mirrors.
- 9) Must have dashboard and door signs displayed inside the vehicle and on the outside of the vehicle. **(Appendix J)**

## APPENDIX B

### 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](mailto:licensing@uttlesford.gov.uk) or (01799) 510510 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) or their nominee 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 monthly 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 convictions recorded against him/her or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction along with the company itself.
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.

## APPENDIX C

### 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](mailto:licensing@uttlesford.gov.uk) or (01799) 510510 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) or their nominee 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 monthly 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.

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

## APPENDIX D

### 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;
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 to 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 convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the drivers licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice.
  - d. Any investigations being carried out into the activities of the driver by the police or a regulatory authority of which the driver is aware within 7 days of the driver becoming aware of the investigation.
  - e. Any damage caused to a licensed vehicle or any accident the driver may have been involved in whilst in charge of a licensed vehicle within 72 hours of the damage or accident occurring.
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, proceed to such destination by the shortest possible route unless otherwise agreed by the customer.

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

## APPENDIX E

### 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 (for example, via App, Telephone, Email, etc.)
  - d) The start point of the journey and the agreed 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 24 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 authorised officer of the authority or a Police Officer within 24 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.
6. 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.
7. 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.
8. 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.

9. Upon request from the licensing authority 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.
  
10. Upon request from the licensing authority 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.
  
11. The operator is required to ensure that all persons that have access to their records, bookings and 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.
  
12. Persons with access to operator's records, bookings and contracts, whether directly employed or otherwise, must satisfy the suitability standards that the authority applies to applicants for Private Hire Operator's licences. The operator is to keep records of such checks.
  
13. 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 for.

**OPERATORS WHO FAIL TO COMPLY WITH THESE  
CONDITIONS MAY HAVE THEIR LICENCE SUSPENDED OR  
REVOKED**

## APPENDIX F

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

## Introduction

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

## Any other reasonable cause

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

- Where information comes to light which suggests that had the information been known at the time of application, a licence would not have been granted or renewed.
- Where a driver ceases to meet the council's licensing standards.
- Where the driver has breached a condition of his or her driver's or vehicle licence.

- Where the driver has committed a minor offence for which he or she is not prosecuted.
- Where information comes to light which suggests that the driver may no longer be a fit and proper person to hold a licence.

## Appeals

Whenever a decision is taken to suspend, revoke or not to renew a licence or where conditions are imposed upon a licence that the applicant has a right of appeal to the magistrates' court<sup>2</sup>. Normally a decision to suspend, revoke or not to renew a licence takes effect 21 days after the driver has been given notice of the decision. A driver may continue to drive during that period and if he or she lodges an appeal within that time may continue to drive until such time as the appeal has been disposed of or has been abandoned. However, when a licence is suspended or revoked and it appears to the council that the interests of public safety require the suspension or revocation to have immediate effect and notifies the driver accordingly, then whilst the driver may still appeal, he or she may not drive once he or she has been notified of the decision.

## Delegated Powers

The Environmental Health Manager (Commercial) or their nominee and those authorised by him have delegated powers to deal with certain types of case. These are as follows:

- 1) When the Environmental Health Manager (Commercial) or their nominee in consultation with an Uttlesford Legal Advisor and Chair of the Licensing and Environmental Health Committee believes that a licence should be suspended with immediate effect on grounds of public safety they may do so. The Environmental Health Manager (Commercial) or their nominee will arrange for a special meeting of the Licensing and

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<sup>2</sup> Drivers have the right of appeal to the Magistrates Court against Uttlesford District Council's decision to refuse/revoke to grant a HC/PHV driver's licence. However, in the case of refusals or non renewals the Court does not have power to grant a licence. Only a licensing authority may do so. All the Court is able to do is review the Council's decision in the light of the Council's policies and national licensing standards, and if the Court is satisfied that the Council acted reasonably then it will dismiss the appeal. In such circumstances the Council would be entitled to an order for costs and it is our practice to seek such an order.

Environmental Health Committee to be convened as soon as is reasonably practicable for the purpose of determining whether the suspension should be confirmed.

The Environmental Health Manager (Commercial) or their nominee also has power to suspend licences for up to 14 days where there has been a breach of condition or where in his or her view a prosecution would be disproportionate.

- 2) The Environmental Health Manager (Commercial) or their nominee also has the power to revoke where a driver has lost their DVLA licence or is medically unfit to drive within the council's licensing standards and is unlikely to recover sufficiently to resume driving prior to the expiration of their licence. In such circumstances that power will be exercised since the driver is not legally entitled to drive.
- 3) The Environmental Health Manager or nominee can in consultation with an Uttlesford Legal advisor and with the Chair of the Licensing and Environmental Health Committee can revoke a licence with immediate effect if they receive information that questions a driver's status as to being a 'fit and proper' person.

Any other decisions concerning the revocation, suspension or non-renewal of a driver's licence must be referred to the Licensing Committee. In addition, the Environmental Health Manager (Commercial) or their nominee may refer cases at his discretion to the Committee instead of dealing with them under his delegated powers.

## **Procedure - Decisions under delegated powers**

Where the Environmental Health Manager (Commercial) or their nominee is considering exercising his delegated powers the following procedure will apply:

- 1) The Environmental Health Manager (Commercial) or their nominee or those authorised by him will write to the driver requesting that he or she make an appointment to meet with the relevant authorised officer. The letter will contain the following:
  - a) Details of the allegations which have been made against the driver or other matters which may lead to the suspension of his licence.
  - b) A statement that the authorised officer may consider suspending the driver's licence for up to 14 days.
  - c) A statement that the driver may be accompanied by his or her operator, a trade union representative or a friend.
  - d) A statement that in the event that the authorised officer decides to suspend the licence that there is a right of appeal.
  
- 2) The meeting between the authorised officer and the driver and his or her representative (if present) shall take the form of a discussion within which the authorised officer will seek the driver's comments upon the allegations made against him or her. If the authorised officer considers it necessary to make further enquiries, he will explain this to the driver and adjourn the meeting to enable such enquiries to be made. In the event that following such enquiries the authorised officer decides that no further action is required (or that the only action which may be required is that which has been discussed with

the driver at the meeting) then the authorised officer will write to the driver accordingly. In any other case the authorised officer will reconvene the meeting.

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

- 6 Members of the Committee will be notified at ordinary meetings of the suspensions undertaken by authorised officers.

## **Procedure - Decisions by the Licensing Committee**

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

- 1) 3 members of the Licensing Committee will be requested to attend a meeting of the Committee for the purpose of considering the allegations.
- 2) Usually, the committee meetings will be held in public although consideration of matters which would not otherwise be in the public domain (e.g. consideration of a driver's medical condition, details of spent convictions etc.) would require the committee meeting to be held in private.
- 3) The driver will be given written notice of the time and date of the committee meeting at least 10 working days prior to the meeting taking place and at the same time will be provided with a copy of the officer's report which will be presented to the committee along with any supporting documents.
- 4) The letter notifying the driver of the time and date of the meeting shall also inform him or her of his or her right to be represented at the meeting by his or her operator, a trade union representative or a friend.

- 5) Having considered the officer's report, any evidence which the officer wishes to tender in support of his report (which shall have been disclosed in advance to the driver), any evidence from the driver, any evidence from witnesses called by or on behalf of the driver and any submissions made by the driver and/or his or her representative, the committee will retire to consider its decision and will upon returning announce its decision to the driver.
- 6) The committee shall give verbal reasons for its decision and in the event that the committee decide to suspend, revoke or not to renew a licence the lead officer of the committee shall explain to the driver his or her right to appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
- 7) As soon as is reasonably practicable after the committee meeting, the lead officer to the committee shall write to the driver confirming:
  - a. the committee's decision
  - b. any sanction imposed.
  - c. the committee's reasons for a. and b. above.
  - d. giving details of the appeal procedure and the fee payable to the court on appeal.
  - e. informing the driver of his or her right to drive during the period within which an appeal may be lodged unless the suspension is taking immediate effect on the grounds of public safety. And if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

## **Principles to be applied in decision making**

The express aims of the licensing regime are the safety and comfort of the public. Safety extends not only to fare paying passengers but also to other road users and pedestrians. When considering the grant of a licence a local authority may not grant a licence to anyone unless they are satisfied that the applicant is a fit and proper person to hold a licence. Where the committee cease to be satisfied for any reason that a driver is a fit and proper person it follows that he or she should not be in possession of a licence and in those circumstances the licence will either be revoked or not renewed on application. There will however be other circumstances where there has been some action or inaction on the part of a driver which has not rendered the driver an unfit person but nevertheless warrants a sanction both as a mark of disapproval of the driver's conduct and as a deterrent to others. In such circumstances, a suspension of the licence would be appropriate. In determining whether to suspend a licence and if so in determining the length of suspension, regard will be had by the Licensing Committee or by the authorised officer in the exercise of delegated powers to the following factors:

- 1) Whether the driver fully admitted the matter alleged or whether he or she put forward explanations which were wholly unsustainable.
- 2) The seriousness of the matter complained of.
- 3) The driver's history.
- 4) Any mitigation put forward by the driver or his or her representative.

## APPENDIX G

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

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

#### **Overarching principles**

This policy covers the use that Uttlesford District Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers’ licences<sup>8</sup>. This information is important in the context of a subsequent application to another authority for a drivers’ licence by a person who has had their licence refused or revoked in the past. Uttlesford District Council has signed up to the NR3. This means that when an application for a taxi drivers’ licence is refused, or when an existing taxi drivers’ licence is revoked, that information will be placed upon the register.

<sup>8</sup> Throughout this policy reference is made to ‘taxi drivers licence.’ This generic term covers a Hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Uttlesford District Council will make a search of NR3. The search will only be made by an officer who has been trained in the use of NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details. Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application<sup>9</sup>.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated<sup>10</sup>. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined<sup>11</sup>.

The data will be held securely in accordance with Uttlesford's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed in accordance with Uttlesford District Council's general policy on the erasure and destruction of personal data.

9 The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

10 Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see *The Criminal Procedure Rules R35.2*). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

11 Decisions of the local authority, Magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when permission has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim first arose" (see *The Civil Procedure Rules R54.5*). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

## **II. Making a request for further information regarding an entry on NR3<sup>12</sup>**

When an application is made to Uttlesford District Council for the grant of a new, or renewed taxi driver's licence, then officers will check NR3. Officers will make and then retain a clear written record<sup>13</sup> of every search that is made of the register.

This will detail:

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

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

If officers discover any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details for further information about that entry. That request will also include details of this Uttlesford's data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy.

It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

### **III. Responding to a request made for further information regarding an entry on NR3<sup>14</sup>**

When Uttlesford District Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years<sup>15</sup>.

Uttlesford officers will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request. Uttlesford District Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

12 This section of the template policy relates to the submission of a request by the second authority.

13 This can be electronic, rather than “pen and paper” hard copy.

14 This section of the template policy relates to the handling by the first authority of a request for information by the second authority.

15 This record can be combined with the written record of the action taken as a result of the request.

If Uttlesford District Council is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed<sup>16</sup>. This will be determined by an officer who has been trained to discharge this function. Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but Uttlesford District Council will not disclose information relating to every entry. Each application will be considered on its own merits. Uttlesford District Council will disclose information relating to a revocation or refusal to grant a driver's licence in accordance with the timescales contained within our policy on deciding the suitability of applicants and licensees in the Hackney and Private Hire Trades.

Where the reason for refusal to grant or revocation relates to a conviction which is within the timescales determined in those guidelines, the information will be disclosed.

Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy. Any information about convictions will be shared in accordance with this policy under GDPR; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law. The officer will record what action was taken and why. Uttlesford District Council will make and then retain a clear written record<sup>18</sup> of every decision that is made as a result of a request from another authority. This will detail:

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

16 If Uttlesford District Council is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of Uttlesford District Council and the 2nd authority.

18 This can be electronic, rather than "pen and paper" hard copy.

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

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

When Uttlesford District Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications. This Council will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above). Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this Council will make in relation to the application.

## Appendix G - information disclosure form

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

*(For completion by requestor authority)*

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

Requestor authority reference number: .....

Name of licensing authority from which information is sought:

.....

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

.....

Decision in respect of which the request is made:

Refusal/revocation

Other details for this record: .....

Address: .....

Driving licence #: .....

NI #: .....

Reference number: .....

### **Declaration by requesting authority:**

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

*The information provided below will only be processed, used and saved by the authority in connection with this particular application*

*and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences and will be retained in accordance with the Authority's retention policy relating to the provision of such information.*

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

**Signed:**

Name: .....

Position: .....

Date: .....

***(For completion by providing authority)***

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

**Declaration by providing authority**

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

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

**Signed:**

Name: .....

Position: .....

Date: .....

### **Licensed Vehicle 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 and private hire fleet, standards relating to the exhaust emissions have been introduced in addition to the requirements regarding the age of vehicles.

#### **Emission Standards**

##### **First Licence Application:**

- DIESEL vehicles must meet or exceed Euro 6 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 5 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 6 emissions standards from **01/04/2021**
- WHEELCHAIR ACCESSIBLE vehicles must meet or exceed Euro 6 emissions standards from **01/04/2025**

##### **Licence Renewal:**

- From **01/04/2022** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 5 emissions standards
- From **01/04/2023** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 6 emission standards
- From **01/04/2025** any wheelchair accessible vehicle due for its annual licence renewal must 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 the 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** 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 of 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 will help improve the charging network and aid drivers in testing and purchasing electric vehicles.

# Suitability Policy

## Appendix I

### **From the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades 2018**

“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***

### **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 licencees 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 qualifications<sup>1</sup>. 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.  
  

<sup>1</sup> Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence  
<sup>2</sup> [2007] 1 WLR 2067
  
- 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 currently 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*<sup>2</sup>.
- 1.7 The otherwise good character and driving record of the subject of the decision will not be considered as exceptional circumstances.
- 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 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: Guidance on Determination

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 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.

- 2.5 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.
- 2.6 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.
- 2.7 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**

- 2.8 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.
- 2.9 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.

- 2.10 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.
- 2.11 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**

- 2.12 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**

- 2.13 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**

- 2.14 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**

- 2.15 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**

2.16 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.**

2.17 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**

2.18 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**

2.19 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.

2.20 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**

- 2.21 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**

- 2.22 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.
- 2.23 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 holders expense.
- 2.24 No driver will be allowed to hold a taxi drivers licence if they have 12 or more current points on their DVLA licence.
- 2.25 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 handheld device whilst driving.

- 2.26 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.
- 2.27 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**

- 2.28 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.
- 2.29 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**

2.30 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**

2.31 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**

2.32 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.

2.33 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.

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

- 2.35 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**

- 2.36 Vehicle proprietors (both Hackney carriage and private hire) have two principal responsibilities.
- 2.37 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 2.38 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 2.39 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.
- 2.40 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**

2.41 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**.

## **Acknowledgements**

This policy is based on the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades released in 2018. Uttlesford District Council would like to acknowledge the contribution made by all those involved in creating the document which helps Local Authorities to have robust policies in relation to suitability.

### Door and dashboard signs

#### Interior Markings

From 2021 all new drivers will display an internal driver identification card in the vehicle on the nearside of the windscreen in an unobstructed and conspicuous position so that passengers may see it. In the case where a vehicle or vehicles have multiple drivers, the driver must remove their identification card when not driving that vehicle and place it back in the vehicle when they do. The driver shall not conceal the driver identification card from public view or deface it.

#### TEMPORARY REPLACEMENT PRIVATE HIRE VEHICLES

The temporary replacement vehicle would have to meet all the same requirements and an identical process to licence the temporary vehicle would be followed as for a permanent change of vehicle this include the display of all door and interior signs.

***NOTE: Failure to comply with this requirement will result in the automatic suspension of the vehicle or drivers licence until such time as evidence is produced that confirms that the above has been adhered to.***

#### Specific Exemptions

The Local Government (Miscellaneous Provisions) Act 1976 requires that a Council must issue a private hire vehicle with a licence plate and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate as directed by the Council. The Act also gives a Council the discretion to grant a proprietor a dispensation from displaying the licence plate on their licensed private hire vehicle. Each application for a dispensation will be considered on its own merits. The overriding consideration

will be public safety. The clear identification of a licensed vehicle is considered a safety aspect, particularly when visiting such places as airports, seaports and the centres of large towns.

There are some exemptions to the above as vehicles used for carrying out specific work such as executive and/or chauffeur work may be authorised not to display the Council official door stickers and licence plate on the outside of the vehicle.

Dispensations will not be granted as a matter of course. A clear case for the dispensation will have to be made by the proprietor, in writing, to the Licensing Service.

In determining an application, it will normally be the status of the passenger and the executive nature of the work that will indicate whether or not the dispensation should be granted. The high quality of the vehicle being used will be supportive of an application but will not be the sole determining factor.

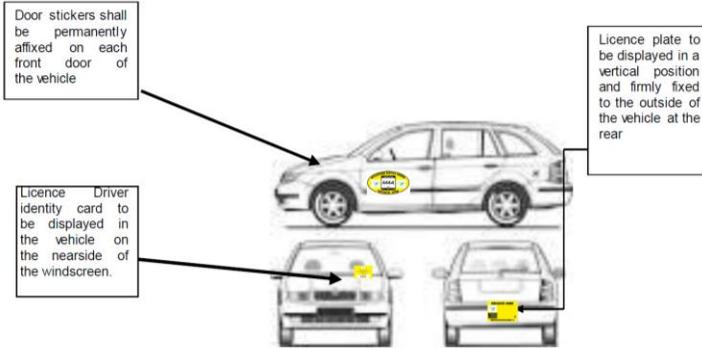
## **Surrender of Licence**

If the proprietor ceases to use the vehicle for the purpose for which it is licensed, they shall formally surrender the licence in writing and return the plate and door stickers, which remains the property of Uttlesford Council.

## **Current Signage**

Plates and badges must be placed like this. At renewal, if there is advertising already on the front driver and passenger doors then they may be placed on the rear doors. Any new licensed vehicle must have them on the front passenger and driver door as indicated:

**GUIDANCE ON POSITIONING OF LICENCE PLATE, DOOR STICKERS AND LICENCE DRIVER IDENTIFICATION CARD**



### Driving Proficiency Test

1. All new applicants for driving licences to be required to pass the Council's approved driving test.
2. Applicants to have held a Full UK Drivers Licence (or equivalent) for a minimum of 3 years at the time of application.
3. Licence holders whose ability to drive the public safely has been brought into question by:
  - I. the accrual of penalty points on their DVLA licence (figure stipulated in the authorities Suitability Policy); or
  - II. another means (such as a series of complaints, etc,) to pass the Council's approved driving test within a fixed period (stipulated in the authorities Suitability policy) or face suspension of their driver's licence until such time as they successfully pass the test.

### New driver training and testing

1. 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.
2. 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.
3. 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 before the course is implemented.
4. 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
5. 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 English language.

The proposed content of the course to include training in the following elements but is subject to change to UDC's specification:

## **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 customer requests (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
- 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 safeguarding vulnerable adults

**Committee:** Licensing & Environmental Health

**Date:**

**Title:** Enforcement Update

13<sup>th</sup> July 2021

**Report Author:** Jamie Livermore, Senior Licensing & Compliance Officer, 01799 510326

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## Summary

1. This Enforcement Update report is to inform the Committee of the enforcement activities carried out by Licensing Officers during the period of 22 April 2021 to 30 June 2021.

## Recommendations

2. It is recommended that Members note the contents of this report.

## Financial Implications

3. There are no financial implications arising from this report.

## Background Papers

4. None

## Impact

5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

6. Between the period of 22 April and 30 June 2021 a total of 22 visits were made to UDC licensed premises. While Covid-19 restrictions have remained in place, visits have been primarily to monitor compliance with the restrictions and to offer guidance and financial assistance where relevant.
7. With the Euro 2020 football tournament commencing in mid-June, advice was also provided on dealing with foreseeable problems that may occur with the showing of matches. As part of this, Licensing Officers have also been accompanying Community Safety Partnership colleagues in their campaign to promote awareness of domestic violence caused by behaviours associated to the football. Beer mats, posters, and literature were handed out to a number of pubs.
8. Licensing Officers from Uttlesford, Braintree, Chelmsford and Colchester took part in 'Operation Coachman' on 8 June 2021. This involved inspecting hackney carriage and private hire vehicles and driver licence checks at various primary schools across Essex during the morning school journey. Any issues identified were subsequently dealt with by the respective Local Authority. There were 2 issues identified with Uttlesford licensed drivers and both concerned the wearing of unsuitable attire. As they were first time breaches, advice was given to both drivers and were warned of future conduct.
9. Another 'Operation Coachman' is scheduled for 6 July 2021 at different Essex schools.
10. Following a change of operating address, one Private Hire Operator was visited and inspected by Licensing Officers for compliance with Uttlesford conditions. The operator was found to be fully compliant at the time.
11. In respect of licensed hackney carriage and private hire drivers, there has been 1 licence revocation and 8 licence suspensions. These are broken down as follows;
  - 1 revocation was as a result of an allegation made concerning a driver's behaviour towards a child passenger during a home to school contract journey. The revocation was made under the delegated authority of the Environmental Health Manager (Commercial) & the Licensing & Environmental Health Committee Chair due to the level of risk posed to public safety.
  - 7 suspensions were as a result of Medical and/or DBS certificates not being received from the driver by the required date.
  - 1 suspension was due to a medical issue that had caused the DVLA to remove the driver's permission to drive, but has since been rectified and reinstated.
12. In respect of licensed hackney carriage and private hire vehicles, there have been 4 licence suspensions. 3 vehicles failed their compliance test, and 1 vehicle was

suspended following an accident and associated damage. All vehicles have now had their suspensions lifted following necessary repairs being made and evidenced.

13. A total of 22 complaints have been received during this period. These are broken down as follows;

- 20 complaints relating to drivers. 6 of these remain in progress at the time of writing.
- 2 complaints relating to vehicles. Both have now resolved been closed.