



Public Document Pack

Uttlesford District Council

Chief Executive: Peter Holt

Licensing and Environmental Health Committee

Date: Wednesday, 2nd March, 2022

Time: 7.00 pm

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

Broadcast:

<https://uttlesford.moderngov.co.uk/ieListDocuments.aspx?CId=140&MId=5765>

Chair: Councillor P Lavelle

Members: Councillors S Barker, M Caton, G Driscoll, A Dean, R Freeman, J Lodge, L Pepper, G Smith and M Tayler

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

Public Speaking

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Public speakers will be offered the opportunity for an officer to read out their questions or statement at the meeting, and encouraged to attend the meeting via Zoom to readout their questions or statement themselves. For further information, please see overleaf. Those who would like to watch the meeting live can do so virtually [here](#). The broadcast will be made available as soon as the meeting begins.

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 the Previous Meeting** 5 - 12
To consider the minutes of the previous meeting(s).
- 3 Taxi and PHV Fees 2022-23** 13 - 21
To approve the proposed licence fees in respect of Hackney Carriage, Private Hire and Operator Licences with effect from 1 April 2022.
- 4 Implementation of Taxi Plus** 22 - 152
To inform Members of the Licensing and Environmental Health Committee that the licensing team will be moving to a new preferred service provider.
- 5 Manual Enhanced DBS certificates** 153 - 274
To inform Members of the Licensing and Environmental Health Committee of the actions that the Licensing Team will take to address issues with the DBS Update service.
- 6 New Drivers Green Penny course outside Uttlesford** 275 - 353
To seek the views of Members of the Licensing and Environmental Health Committee upon whether Uttlesford District Council approved "New Driver Courses" may be offered at hubs around the UK rather than only within the District.
- 7 New Medical Process for Drivers** 354 - 368
To inform Members of the Licensing and Environmental Health Committee of changes in the process for the obtaining of Drivers' Group 2 medical certificates.
- 8 Update Environmental Health Commercial Service** 369 - 377

To outline to members the work of the Environmental Health (Commercial) Service as undertaken between April 2020 and January 2022

9 Environmental Health Protection Service - Air Quality Update 378 - 386

To provide the Committee with an overview of status of air quality in Uttlesford.

10 Revised Policy relating to the Hackney Carriage & Private Hire Trades 387 - 544

To inform Members of the revision to the Hackney Carriage & Private Hire Policy following the Committee's adoption of the Service Level Agreement with the MOT testing stations that have been or are to be approved to undertake the Council's vehicle compliance test on its behalf

11 Enforcement Update 545 - 547

To inform the Committee of the enforcement activities carried out by Licensing Officers during the period of 01 November 2021 to 11 February 2022.

MEETINGS AND THE PUBLIC

In light of the 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 6th 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 AND ENVIRONMENTAL HEALTH COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY, 26 JANUARY 2022 at 10.00 am

Present: Councillor P Lavelle (Chair)
Councillors S Barker and A Dean

Officers in attendance: A Chapman (Licensing and Compliance Officer), D Cole (Licensing and Compliance Officer), C Edwards (Democratic Services Officer), A Lindsell (Democratic Services Officer) J Livermore (Senior Licensing and Compliance Officer) and S Mahoney (Senior Licensing and Compliance Officer)

Also present: The driver in relation to agenda item LIC22
The applicant in relation to agenda item LIC23

LIC20 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

LIC21 **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 paragraph 1 part 1 of Schedule 12A of the Act.

LIC22 **REVIEW OF PRIVATE HIRE & HACKNEY CARRIAGE DRIVER LICENCE**

The Chair asked the driver if he was content to continue despite the late issue of his documents. The driver confirmed that he was content to proceed.

The Panel and Officers present introduced themselves to the driver.

The Licensing and Compliance Officer gave a summary of his report which requested that members determined a review of the driver`s Private Hire/ Hackney Carriage Driver Licence.

In response to questions from Members the Licensing and Compliance Officer confirmed;

- That the damage to the tyres could have been caused by a balancing issue.
- The damage to the tyres was not ordinarily visible while the wheel was in the usual position.
- The photographs provided within the agenda pack were the documents referred to as B1, B2 and B3 within the report.

The driver confirmed that he had nothing further to add.

In response to questions from Members the driver confirmed;

- No further action had been taken by The Police or other parties following the incident.
- No points were added to the driver`s license as a result of the incident.
- The driver returned to work as a taxi driver two months after the incident following treatment for Post Traumatic Stress Disorder.
- The driver had volunteered to become a school driver post covid as a result of lack of work from his usual source, Stansted Airport. He had worked as a taxi driver sporadically for four years, currently three of four days a week.
- His employer confirmed that the vehicle was his responsibility once he collected it but was the employer`s property.
- The driver checked the vehicle visually when he collected it on Monday morning and admitted that he did not check it every day. The driver reported issues to his employer that arose from his weekly inspections and took action to rectify issues such as a flat tyre.
- The driver lived in Epping and collected the specific taxi in question from Stansted Airport daily to do the school run, returned the taxi to the Airport, and collected it again later in the day to complete the after school run. The taxi was under the control of the employer most of the time.
- The employer undertook vehicle checks at the end of each term, which was evidenced by the driver noticing changes within the vehicle when he returned after a break.
- The driver did not know the mileage of the vehicle.
- The driver apologised that the incident occurred and noted his remorse that his passengers were put at risk.

The driver left the meeting at 10:19am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 10:50am and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 10:52am.

DECISION NOTICE

The matter before the Panel today is an application for the review of the driver`s joint hackney carriage/PHV driver`s licence reference PH/HC4808. The driver is employed as a Home to School Transport (HtST) driver. This is a hybrid hearing with the Panel, our Legal Advisor and the driver in the Council Chamber at London Road and the other parties attending remotely. Due to a clerical error he

did not receive the paperwork timeously but has agreed to deal with the matter on short notice today.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the driver, and we have also seen, as has he, the background documents annexed thereto including the photographs of the tyres in question. We have had the opportunity of hearing from him, and in reaching our decision we have also taken into account national and the Council's policy.

The facts of this matter are simple. On 6 July 2021, the Uttlesford District Council Licensing Team were notified by PC Lee Johnston of the Essex Constabulary Roads Policing Unit of an accident involving the driver. PC Johnston's report is included in the papers before us, and in brief, he attended the scene of a Road Traffic Accident on the A120 near to Stansted Airport, involving a vehicle driven by the driver, a Ford Tourneo minibus, index YR19HEZ, and another vehicle. Upon examination, the officer noticed that both the front tyres on the vehicle driven by the driver were worn to an extent that the ply/cords were visible on the inside. The photographs taken by PC Johnston during his vehicle examination are also before us.

The driver stated that, prior to the collision, he had been the only driver of the vehicle in question for some time. It had, therefore, been incumbent on him to ensure that the vehicle was in a roadworthy condition. Tyre wearing of the nature discovered by the constable's examination would ordinarily occur over a prolonged period of time, suggesting that daily checks of the vehicle had not been carried out by the driver before using it to transport his passengers. Given that he is employed as an HtST driver we cannot but regard this as being a very serious matter indeed. We have heard from the driver and the Case Officer, and the former explained to us the manner in which he carried out his duties. When not on the road the vehicle was in the operator's compound at Stansted and they carried out many of the routine checks and maintenance rather than him. We also note that the wear upon the tyres would not have been visible to a casual inspection, that the police have taken no action against him and that he was extremely sorry for what had happened.

However, the primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. We are not entitled to take into account issues such as hardship to the driver in the exercise of our statutory function. Our role is to determine whether or not he remains a fit and proper person to hold a HC/PHV licence and if we consider that he is not, then our duty is clear – we should revoke the licence.

In this case the driver was employed as an HtST driver and was therefore transporting children. He was involved in an accident in a vehicle the routine day to day maintenance of which was nominally his sole responsibility. However, he told us that for most of the time the vehicle was in the physical custody of the operator between, say 10.00AM and 2.30PM, overnight, and at weekends and during the school holidays and therefore he – and this Panel – cannot be certain as to what usage the vehicle had in those periods. We recognise that the driver has primary responsibility for a vehicle that supposedly only he drives, but we also acknowledge that he has no knowledge of the use to which it is put when he is not driving it. Further, we note that the defects in the tyres were not readily visible to the naked eye – the steering wheel has to be turned in order to expose the inner surface of a tyre.

This accident took place in early July on a main road and conditions would have been reasonably good. Mercifully he was not carrying passengers and on this occasion nobody was seriously injured. This could have been much, much worse.

Given the responsibility the operator also has for the condition of this vehicle, we will permit the driver to retain his licence. We note he is now checking his vehicle meticulously and he should continue to do so. We strongly urge him to study the conditions of his licence and follow them strictly, and we do not expect him ever to see him before us again

LIC23

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The Chair asked the applicant if he was content to continue despite the late issue of his documents. The applicant confirmed that he was content to proceed.

The Panel and Officers present introduced themselves to the applicant.

The Licensing and Compliance Officer gave a summary of her report which requested that members considered a Review of a Private Hire and Hackney Carriage Driver Licence.

In response to questions from Members the Licensing and Compliance Officer confirmed;

- The Driver License Application Form submitted was signed by the applicant and that the two signatures required within the document looked reasonably similar.
- It was necessary for an applicant to sign the Driver License Application Form.

In response to questions from Members the applicant confirmed;

- The applicant did not complete the form.
- If the applicant had completed the form he would have declared the previous conviction as he was not dishonest.
- The applicant confirmed that he had informed the operator of his penalty points and explained that the operator also had access to the DVLA site and had the ability to check their employees records.
- The applicant said that he was told to sign the blank form and that he did not see the completed form. He confirmed that the signatures dated 23/12/2021 on pages 4 and 5 of the application form were his signatures and noted that his signature was rarely identical.
- The applicant said that the operator wanted the forms completed as quickly as possible.
- The operator had apologised for the oversight in inaccurately completing the form on the applicant's behalf.
- On the day the form was signed four other drivers were present and also signed blank forms.
- The applicant had worked for the operator since August 2021 and was previously a Public Service Vehicle driver working with buses.

The applicant left the meeting at 11:06 and the meeting was adjourned; the Panel retired to make its decision.

The meeting reconvened at 11:18.

The Chair confirmed that the Panel had resolved to grant the applicant his license.

There was a unanimous vote to grant him a license and to write to the operator.

DECISION NOTICE

The matter before the Panel today is an application for the grant of a new HC/PHV driver's licence to the applicant. If successful he has an offer of employment as a Home to School Transport (HtST) driver. This is a hybrid hearing with the Panel, and our Legal Advisor in the Council Chamber at London

Road and the other parties, including the applicant, attending remotely. Due to a clerical error he did not receive the paperwork timeously but has agreed to deal with the matter on abridged notice.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the applicant, and we have also seen, as has he, the background documents annexed thereto and we have had the opportunity of hearing from the Case Officer and from the applicant.

Briefly, the Drivercheck report submitted alongside the application dated 5th January 2022, a copy of which is before us, shows that the applicant has 3 points on his DVLA licence for a TS10 on 16th June 2018. Unfortunately, he failed to declare this information on his application form. The Rehabilitation of Offenders regime does not apply to the licensing of HC/PHV drivers. The Drivercheck report dated 5th January 2022 (copy attached) showed that the applicant has 3 points on his DVLA licence for a TS10 in June 2018. Unfortunately, the applicant failed to declare this information on his application form. Question 4 of the UDC application form clearly asks "Do you have any endorsements on your DVLA Licence" the box ticked is "No" (copy attached). The UDC application form also clearly states that "You must include all Driving Licence Endorsements within the last 7 years".

The applicant did not enter the details of this conviction on the form, and though it would normally be spent and would drop off his licence, this does not apply to PHV licensing and we are entitled to take into account spent matters.

Question 4 of the UDC application form clearly asks "Do you have any endorsements on your DVLA Licence". The box ticked is "No". The form also clearly states that "You must include all Driving Licence Endorsements within the last 7 years". The applicant did not enter the details of this conviction on the form.

When interviewed over the telephone he stated that the form had been completed by his intending employer, rather than he himself, and that he

believed the points were spent. This raises two issues – it is the applicant's responsibility to ensure the application documentation is correct, and it shows a failure to familiarise himself with the Council's requirements for the issue of a licence.

Clause 2.3 of the Council's Driver Conditions policy states as follows:-

“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 (eg 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”

We have heard from the Case Officer and from the applicant. He is clearly very unhappy about what happened and we too are very unhappy about the practices of a number of PHV operators regarding the completion of driver licence application forms. He assured us that if he had completed the form himself then the conviction would have been declared but that instead the operator had asked him to sign a blank form. He was at a recruitment session and was one of five aspiring drivers. They were all instructed to sign blank forms and their putative line manager said she would do the rest. The operator had access to the DVLA check and the applicant was clear he told them about the conviction. He also told us that the line manager had admitted the mistake was hers and that she had forgotten the conviction, but that he was not happy with the way the company had handled the matter. He felt that this had made him look dishonest, that he would have filled in the form correctly and that this was not satisfactory. We agree.

However, the primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not an applicant is a fit and proper person to hold a HC/PHV licence and if we consider that he is not, then our duty is clear – we should refuse the application.

We have heard what the applicant has had to say and note that this appears to be yet another case in which an operator is cutting corners. We deplore the practice of requiring applicants to sign blank forms for the operator to complete on their behalf – the accuracy of their application is their responsibility, not the operator's. We note how unhappy he was about this practice and that he had complained about it. We are therefore prepared to grant him a licence but would urge him to be very careful about what he signs in future.

The meeting concluded at 11:19am.

Agenda Item 3

Committee: Licensing and Environmental Health Committee

Date:

2 March 2022

Title: Licence Fees for Drivers, Hackney Carriage and Private Hire Vehicles and Private Hire Operators

Report Author: Russell Way, Licensing and Compliance Manager

Summary

The purpose of this report is to enable Members of the Licensing and Environmental Health Committee to approve the proposed licence fees in respect of Hackney Carriage, Private Hire and Operator Licences with effect from 1 April 2022

The proposed increases in respect of Hackney Carriage and Private Hire Vehicle Licences and Private Hire Operators Licences have been duly advertised for the required period of 28 days and the representations received are referenced in this report.

Financial Implications

There are no cost implications to the Council in undertaking this legal duty and this is recognised in the legislation which gives provision for the Council to recover the costs of administering the scheme and to ensure compliance.

Background Papers

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

Appendix

- A – Forecast deficit/surplus for 2021/2 to 2022/23
- B - Recoverable administration costs of each licence
- C - Fees and charges from Essex and neighbouring Authorities for information
- D – Breakdown of driver licence process internal and external cost

Impact

Communication/Consultation	Operators and Hackney Carriage proprietors and Trade Association where
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	<p>emailed as part of a 28 day consultation process. Advertisements in newspapers and communication using websites and social media were also used. There were no responses by the trade to the consultation</p>
Community Safety	<p>Uttlesford Licensing Committee have agreed to meet the Department of Transport's required Standards for the Hackney Carriage and Private Hire Vehicle industry as soon as possible. This will not be an easy journey.</p> <p>The fees for Hackney Carriage, Private Hire and Operator Licences are reviewed by the Council on an annual basis to determine whether the income received from the previous year has been in line with the cost of delivering the service.</p> <p>The basis of the costing review for licence fees consists of an analysis of the time taken and/or cost for each element of the licensing process. This review has been undertaken and it has been identified that the total timings and costs associated with the licensing process are in line with the current fees charged.</p>
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	<p>This is a proportionate response to ensure licensing authorities, including Uttlesford, carry out their own due diligence checks as required by law. This ensures Uttlesford does not licence drivers whose licences been revoked or an application refused for a licence by another licensing authority.</p>
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

- 1 It is a statutory requirement for this Committee to approve the licence fees.
- 2 The Council are legally entitled to charge a fee for licences at a level they consider reasonable, with a view to recovering the costs of the issue and administration of the licence.
- 3 Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 the cost of a licence must be related to the cost of the licensing scheme itself. It is therefore appropriate for a local authority to recover their administrative and other associated costs.
- 4 The fees for Hackney Carriage, Private Hire and Operator Licences are reviewed by the Council on an annual basis to determine whether the income received from the previous year has been in line with the cost of delivering the service. The basis of the costing review for licence fees consists of an analysis of the time taken and/or cost of each element of the licensing process. This review has been undertaken and it has been identified that the total timings and costs associated with the licensing process are in line with the current fees charged.
- 5 The underlying costs associated with the issue of together with the recoverable administration costs of each licence type is shown in Appendix B. Appendix A shows the forecast deficit/surplus for 2021/22 to 2022/23 on the assumption that the fees are as proposed in Appendix B. The forecast deficits and surpluses in these years relate to the fact that there is a timing mismatch between when the income for driver and operator licences is received and when the costs are incurred for these licences, ie they last for a number of years and the fee is payable "up front". It is because of this 'timing mismatch' that the licensing reserve was established in order to hold some of the income received from driver and operator fees until the costs relating to this income have been incurred, and the two can be offset against each other.
- 6 A table showing fees and charges from other Essex and neighbouring Authorities is attached for information as Appendix C. This shows Uttlesford as still having the lowest vehicle licence fees and among the lowest driver and operator fees.
- 7 In order to streamline services and meet DfT Standards (see above) some changes are necessary regarding the external costs of the service. To speed up DBS and Driving licence checks the Council will be moving these services to Taxi Plus. This firm will also be conducting all DBS multichecks (the cost of which are included in the drivers' fee) which are necessary in order to meet DfT standards and UDC policy. There is also an additional cost for UDCs Occupational Health provider to carry out a second medical examination in cases of doubt, where independent medical advice is needed. A full breakdown of internal and external costs is shown in Appendix D
- 8 The 28-day consultation started on Thursday the 6th of January. It concluded on Thursday the 3rd February. During that time a meeting with the trade

occurred on Monday the 17th January. Trade representatives made the following points

- Showing fees from other councils may be misleading as it is not clear what cost is included in each.
- Overall cost of drivers licence (including internal and external costs) has increased by £9.80.
- The Licensing Manager re-iterated that these new processes (and with it small additional costs) were essential (not desirable) to meet DfT standards and UDC policy.

The Council identified to the trade that there has been an overcharge (currently £14.14 per licence) through the vehicle income. This is due to the fact that despite their best efforts the Licensing Team have at this stage failed to recruit a enforcement officer.

No written objections were received by the Council to the consultation.

- 9 Members are asked to approve the fee structure proposed in Appendix B to come into effect as of 1 April 2022

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
<p>3 = Significant risk or impact – action required</p> <p>There is a need for the council to ensure it meet the Government standards. Reputational damage could occur.</p>	<p>2 = Some risk or impact – action may be necessary.</p>	<p>3 = Significant risk or impact – action required</p>	<p>3 = Significant risk or impact – action required</p>

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.

Appendix A : Forecast expenditure and income for Taxi licensing (Note a) and movement on the licensing reserve.

	Actual 2020/21 £	Forecast 2021/22 £	Forecast 2022/23 £
Expenditure (b)	485,210	611,500	579,300
Income (c)	439,992	613,800	585,600
Deficit/Surplus (-ve is deficit)	-45,218	2,300	6,300
Reserve balance b/f	79,725	34,507	36,807
Reserve balance c/f	34,507	36,807	43,107

Notes

- (a) The expenditure relates to the costs incurred in year processing and issue of applications and also includes checks to ensure standards are adhered to.
- (b) i) Assumption of 2% annual inflation on supplies and services, 2% pay awards and contractual salary increments.
 ii) Staffing costs are based on surveyed number of hours spent on processing licence applications and checks to ensure standards are adhered to.
 iii) Expenditure includes overhead costs for the licensing department allocated on fair and proportionate bases i.e. office accommodation costs are based on square footage occupied and ICT costs are allocated on basis of software/hardware used etc.
 iv) In computing the expenditure a churn rate of 10% has been used i.e. an assumption that 10% of driver licences are given up in the following year.
- (c) Income forecast assume the following estimated number of licences.

Estimated number of licences

	Forecast 2021/22	Forecast 2022/23
Vehicle licenses	2,577	2,565
Driver licences	1,036	912
Operator licences	29	18

Appendix B : Proposed new licence fees from 1st April 2022

	CURRENT	PROPOSED	INCREASE	INCREASE
			Note 1	PER WEEK
	£	£	£	£
Driver licence - 3 years (*)	218	213	-5	-0.03
Driver licence - 2 years (*)	202	199	-3	-0.03
Driver licence - 1 year (*)	186	186	0	0.00
Operator	493	508	15	0.06
Vehicle (*)	145	149	4	0.08
Vehicle - Transfer (*)	105	108	3	0.06

* These fees apply for both Hackney Carriages licenses, Private Hire Licenses and Combined Hackney Carriage and Private Hire Licenses

Note 1: The reasons for the change in the licence fees are as follows :

- i) A detailed review of time spent on tasks involved in administering each taxi licence has been undertaken.
- ii) The cost of staff involved in administering the taxi licensing process has been updated.
- iii) It is planned to engage a company to undertake medical assessments and to implement a DBS multi-check service
- iv) The cost of the Driver check service has been removed from the cost of a driver license

Appendix C : Comparison of proposed UDC Tax licensing fees with other Essex authorities

	B R E N T W O O D	B A S I L D O N	B R A I N T R E E	C H E L M S F O R D	C O L C H E S T E R	T E N D R I N G	UDC PROPOSED £	Diff between UDC fee and avg charge
Operator licenses								
<u>5 year licenses</u>								
Single vehicle	325	300	444	743	290	?	508	21%
2-5 vehicles	1,085	750	444	2,599	335	?	508	-51%
6-10 vehicles	1,345	750	444	2,599	400	?	508	-54%
over 10 vehicles	1,345	1,250	444	2,599	400	?	508	-58%
Vehicle licenses								
<u>1 year licenses</u>								
Private hire licenses								
New	225	340	278	219	350	334	149	-49%
Renewal		325		212	350	334	149	-51%
Hackney Carriage licenses								
New	243	390	330	527	400	334	149	-60%
Renewal	243	375	330	371	400	334	149	-56%
Driver licence - Combined Hackney Carriage & Private Hire Vehicle Driver's Licence								
<u>3 year licenses</u>								
New	404	290	269	219	200	274	213	-23%
Renewal	354	190	269	212	180	274	213	-14%

Appendix D : Internal and external Costs

	UDC	External
2021- 22	<ul style="list-style-type: none">• Driving licence check	<ul style="list-style-type: none">• Enhanced DBS• Driver proficiency test• Drivers Medical• Green penny training course
2022-23	<ul style="list-style-type: none">• Medical retainer• DBS Multicheck - £6	<ul style="list-style-type: none">• Enhanced DBS• Driver proficiency test• Drivers Medical• Green Penny training course• Driving licence check - £14.80

Agenda Item 4

Committee: Licensing and Environmental Health Committee

Date:
6/1/22

Title: Tender of Taxi Plus to carry out
Driving licence checks and
Enhanced DBS with Multi-check

Report Author: Russell Way, Licensing and Compliance Manager

Summary

The purpose of this report is to inform Members of the Licensing and Environmental Health Committee that the licensing team will be moving to a new preferred service provider to carry out

- Enhanced DBS checks
- Driver Licence checks
- Multichecks of drivers DBS on the update service (phased in all drivers from March 2021)

That company is Taxi Plus [Taxi Licensing Services | TaxiPlus](#)

Financial Implications

There are no cost implications to the Council in agreeing to this. All fees and charges have been incorporated into the proposed fees for 2022- 23

Background Papers

1. 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 Private Hire Policy

Appendix B – DBS Multicheck

Appendix C – DfT Standards

Impact

Communication/Consultation	This report is intended to assist members understand the process changes being implemented by officers.
Community Safety	This change is intended to increase public safety and ensure policy is followed
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	Once voted this document will become live and implemented across the council.
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

- 1 All drivers are subject to several compliance checks to determine if they are fit and proper. Two of these are
 - DVLA Driving Licence check
 - Enhanced DBS that checks both bared list (child and adult)
- 2 An enhanced DBS is needed at initial licence by all drivers. Drivers are not mandated to use our provider, and use other providers. The current enhanced DBS provider that UDC use does not offer a streamlined service. Issues exist with the current provider, such as the licensing team not being notified when drivers complete their part of the application. The payment is outside the scope of the software and drivers pay UDC separately for the cost @ £50.07
- 3 The licensing Committee have previously elected that all drivers must sign up to the update service. This was implemented in March 2021. Once a driver signs up to the update service, they are on it for life and they should not need to carry out an initial enhanced DBS check again, unless a change occurs to their DBS or they fail to make a payment. Once a driver is on the update service the council can check their DBS periodically to see if it has changed using Multi Check. Our preference was to outsource this requirement with the

enhanced DBS, so a company is needed to fulfil this activity – see Appendix B

- 4 The DVLA driving licence check service that the council uses is not streamlined and there are providers who do provide better service. However once signed up the council get regular periodic updates on drivers' points, licence expiry, address changes etc. There are clear safety benefits of signing up to such a service rather than one check at the start of an issued Taxi or PHV licence. The cost for our current provider for this service is currently incorporated within the drivers Taxi and PHV licence and is £3.50 x 3 years = £10.50
- 5 The licensing Team have now selected one company to provide a streamlined services to UDC and the Trade. They will provide access to UDC staff to their systems - Taxi Plus. Taxi Plus are successfully used by councils around the UK. This will be implemented in April 2022 following an appropriate procurement process. They will then:
 1. Carry out all DBS Multi checks going forward on all drivers (who have so far signed up to the update service) – cost of £6/year i.e. £18 incorporated in the 3 year driver licence
 2. If required, carry out enhanced DBS on drivers on behalf of the council. Payment direct to Taxi Plus at £54.00.
 3. Carry out live driving licence check for the duration of the 3-year drivers' licence. Payment direct to Taxi Plus at £12 + VAT
- 6 The above costs have either been incorporated or removed into the annual fees that you see before you this evening.

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 if followed.	2 = Some risk or impact – action may be necessary. The council may be subject of legal activity such as a Judicial review if their policies are	2 = Some risk or impact – action may be necessary. There is no risk other than through a legal challenge if we have clear policies in place	2 = Some risk or impact – action may be necessary. Clarity by members is required at this point.

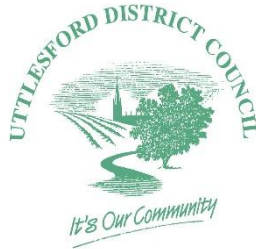
	not clear and proportionate		
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1 = Little or no risk or impact

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

This document was approved at the Environmental and Licensing Committee 10th May 2021

Proposed Amendments – which were agreed at above meeting

- V. 2 13th 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.¹

- 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

¹ 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 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 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' court². 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

² 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’ licences⁸. 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.

⁸ 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 application⁹.

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 stated¹⁰. 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 determined¹¹.

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 NR3¹²

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 record¹³ 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 NR3¹⁴

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 years¹⁵.

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 disclosed¹⁶. 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 record¹⁸ 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 qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

¹ Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence
² [2007] 1 WLR 2067

- 1.3 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*².
- 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.

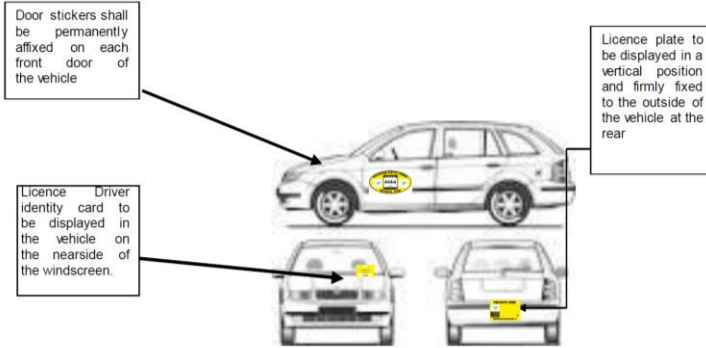
Surrender of Licence

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



Disclosure &
Barring Service

DBS Update Service **Multiple Status Check Facility**

November 2018

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1.0 Background

For a small annual subscription of just £13, applicants can join the Update Service and keep their DBS certificate up-to-date. They can take it with them from role to role, within the same workforce, where the same type and level of check is required. The service is free to volunteers.

The Update Service is only currently available for standard and enhanced DBS checks.

If an applicant has subscribed to the Update Service, with their permission, you can use their current DBS certificate and carry out a free, instant online Status Check to see if any new information has come to light since its issue.

Have you given the applicant their application form reference number?

To help applicants join the Update Service at the earliest opportunity, where possible, give them the application form reference number so they can join immediately.

If they wait to subscribe with their DBS Certificate number they must use it within 30 days.

1.1 How to carry out Status Checks

After viewing the original DBS certificate, if you are entitled to carry out a Status Check you can do this online at www.gov.uk/dbs-update-service. Refer to the [DBS Update Service Employer Guide](#) for further information on entitlement to carry out a 'Status Check'.

You will need to enter the name of your organisation, your forename and surname and then the following details of the DBS certificate being checked:

- DBS certificate number
- current surname of the DBS certificate holder, as specified on their DBS certificate
- date of birth of the DBS certificate holder, as recorded on the DBS certificate

1.2 What is Multiple Status Checking?

Some organisations submit large numbers of DBS applications and need to be able to carry out large numbers of Status Checks every day. Other organisations may not submit large numbers of applications but may still want to use a quick and efficient Multiple Status Checking facility which will allow them to carry out Status Checks simultaneously rather than separately.

The DBS has developed a Multiple Status Check facility which can be accessed via a web service. The Multiple Status Check facility will enable organisations to make an almost unlimited number of Status Checks simultaneously.

If you would like to carry out multiple, or large numbers of Status Checks quickly, you will benefit from using the Multiple Status Check facility.

1.3 Benefits to you, as an employer

- Quick online checks of DBS certificates
- Ability to carry out large numbers of checks at the same time
- No more time-consuming DBS application forms to fill in
- You may never need to apply for another DBS check for an employee again
- Saves you time and money
- Enhances your safeguarding processes and may help reduce risks
- Easy to incorporate into your existing suitability decision-making processes
- Less bureaucracy

1.4 Benefits to your employee

- Saves them time and money
- One DBS certificate is all they may ever need
- Their DBS certificate can be taken from role to role, within the same workforce
- They have greater control of their DBS certificate
- They can get ahead of the rest and apply for jobs DBS pre-checked

1.5 How to access the Multiple Status Check facility

Your organisation or IT department will need to develop a system which will enable you to:

- input the required information to carry out Status Checks on numerous individuals simultaneously
- send the individual information to the DBS system
- access information relating to the Status Checks you submitted
- return the results to you

Your system will connect to the DBS system using a web service. We have provided technical information and guidance in the next part of this guide.

Once the system is built and you want to use it, you will need to submit the following information for each individual, for which you have permission to carry out a Status Check:

- the DBS certificate number of the certificate being checked
- the surname of the applicant, as it appears on the certificate being checked
- the date of birth of the applicant, as it appears on the certificate being checked
- the name of your organisation

You will also need to agree with the declaration below and enter 'True' with the information to be submitted for each Status Check.

'I confirm I have the authority of the individual to which this DBS Certificate number relates to receive up-to-date information (within the meaning of section 116A of the Police Act 1997) in relation to their criminal record DBS Certificate for the purposes of asking an exempted question within the meaning of section 113A of the Police Act 1997; or in relation to their enhanced criminal record DBS Certificate for the purposes of asking an exempted question for a prescribed purpose within the meaning of section 113B of the Police Act 1997.'

1.6 What Status Check results will I see and what do they mean?

If the details entered can be matched to a valid DBS certificate linked to an individual subscribed to the Update Service, the latest Status of that DBS certificate will be returned.

The Status Check result only relates to the individual named on both the DBS certificate and on the Status Check result screen.

The Update Service will only check for updates based on the individual for whom the check was carried out – not the home address where the work is being undertaken or any other individuals employed or living at that address.

No checks have been made against any third parties associated to the individual. This could have implications for individuals who are employed in home-based occupations, in which third parties may be considered.

The outcome of a valid Status Check will be one of the following:

Returned result	Status Checking response	Meaning
'BLANK_NO_NEW_INFO'	<i>'This DBS certificate did not reveal any information and remains current as no further information has been identified since its issue'.</i>	The individual's DBS certificate contains no criminal record information and no new information has come to light since its issue.
'NON_BLANK_NO_NEW_INFO'	<i>'This DBS certificate remains current as no further information has been identified since its issue'.</i>	The individual's DBS certificate contains criminal record information, but no new information has come to light since its issue.
'NEW_INFO'	<i>'This DBS Certificate is no longer current. Please apply for a new DBS check to get the most up-to-date information'.</i>	The individual's DBS certificate should not be relied upon as new information is now available. You should request a new DBS certificate.

1.7 What are the next steps?

- Discuss the Multiple Status Check facility and its benefits with your organisation
- Pass this guide and technical information to your IT department or an IT developer

Your system can be as simple or as complex as you need - this will affect the time it takes to set it up.

If you need any further information contact your designated account manager if you have one, or DBS customer services at customerservices@dbs.gov.uk.

Once your system is ready you can start using the free Multiple Status Check facility immediately.

2.0 Technical information

The following technical information assumes a certain level of technical knowledge. It has been developed to inform organisations and IT departments of the necessary components required to develop a front-end programming interface needed to access the DBS Multiple Status Check facility.

Note: The DBS do not supply a sample front-end system, nor do we support systems developed by other organisations. It is the responsibility of organisations wanting to use the Multiple Status Check facility to construct and maintain their own front-end system.

2.1 What is a web service?

The functionality of the Update Service Multiple Check facility is exposed to organisations via a web service. Web services are typically Application Programming Interfaces (API) or Web APIs that are accessed via Hypertext Transfer Protocol (HTTP). The web service used by the DBS is called 'Restful Web'.

A web service:

- is a standard mechanism for organisations to expose business functionality to their partners
- allows IT applications to communicate with each other in a platform and programming language, independent manner
- is a software interface that can be accessed over the network through standardised XML messaging
- output is typically XML which is easily interpreted and processed by software applications

2.2 How do I use the Web Service?

The Web Service provides an API for organisations to access the Update Service Multiple Status Check facility. This is achieved by calling a URL.

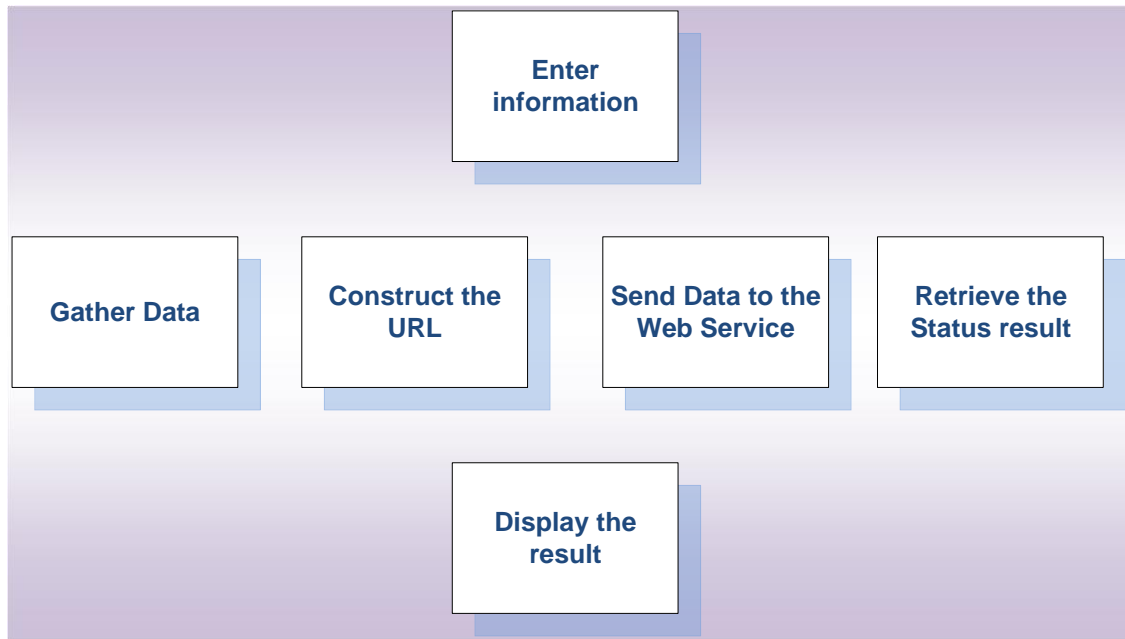
Organisations wanting to use the web service will need to build their own front-end system. This is the front-end programming interface needed to access the DBS web service. The purpose of the front-end system is to send individual information via the API and retrieve the Status result.

A front-end system can be a complex automated product capable of interacting with bespoke inhouse business systems, or it can be achieved using a straightforward software application such as Microsoft Excel.

Your front-end system will need to:

- gather the mandatory input data required to carry out a Status Check (this is the data relating to the individual's DBS Certificate requiring the Status Check)
- send that data to the web service (via a URL)
- retrieve the Status result from the web service and associate it with the relevant individual's DBS certificate

Typical Multiple Status check front-end system functions



2.3 What are the inputs required to make a Multiple Status Check?

The information required to make a valid Multiple Status Check is the same as the information required to make a Single Status Check.

The data inputs are:

- the DBS certificate reference number of the DBS certificate being checked (Integer)
- the surname of the applicant, as it appears on the DBS certificate being checked (Text)
- the date of birth of the applicant, as it appears on the DBS certificate being checked (Date)
- the name of your organisation (Text)
- the name of the employee making the Status Check (Text)
- an indication that you have the Individual's consent to make the Status Check (True/False)

A front-end system must provide all the above inputs (within the URL) or the Status Check will be rejected. If the data cannot be matched to the DBS certificate of an actual Update Service individual, the Status Check will be rejected.

2.4 What is the URL needed to call the web service?

The URL used to call the Web Service is:

<https://secure.crbonline.gov.uk/crsc/api/status/<disclosureref>?dateOfBirth=<DD/MM/YYYY>&surname=<text>&hasAgreedTermsAndConditions=true&organisationName=<text>&employeeSurname=<text>&employeeForename=<text>>

Note: The text variables within the URL (shown as <text> or DD/MM/YYYY) will need to be replaced with the input values (individual's name, date of birth, DBS Certificate number, employee surname and forename) entered into your front-end system.

A Multiple Status Check is many Single Status Checks happening in quick succession, therefore each instance of a Status Check must call the URL independently. This can be done quickly by constructing a loop within your front-end system's coding. Your organisation's developers may also find it useful to replace the <text> components within the URL with predefined variables set to have a value of the required data inputs.

The '&hasAgreedTermsAndConditions' component within the URL must have a value of 'True'. This value represents whether the employer has the individual's consent to carry out the Status Check or not. A value of 'True' is the default position within the URL, however your organisation's developers may handle this element in different ways, for example, setting the variable to 'True' only if there is a 'Y' in a 'consent received' column within your front-end system.

2.5 What might a front-end system look like?

There is no definitive model for a front-end system. Its look and feel will depend entirely on your organisation's business needs and design preference.

The example below shows what a simple front-end system could look like. In this example the front-end system uses Microsoft Excel as the host application.

Example System

Certificate Ref	Applicant Surname	Date of Birth	Status Result
1123564855	Smith1	01/01/1985	'BLANK_NO_NEW_INFO'
1123564856	Smith2	02/01/1985	'BLANK_NO_NEW_INFO'
1123564857	Smith3	03/01/1985	'BLANK_NO_NEW_INFO'
1123564858	Smith4	04/01/1985	'BLANK_NO_NEW_INFO'
1123564859	Smith5	05/01/1985	'BLANK_NO_NEW_INFO'
1123564860	Smith6	06/01/1985	'BLANK_NO_NEW_INFO'
1123564861	Smith7	07/01/1985	'BLANK_NO_NEW_INFO'
1123564862	Smith8	08/01/1985	'BLANK_NO_NEW_INFO'
1123564863	Smith9	09/01/1985	'BLANK_NO_NEW_INFO'
1123564864	Smith10	10/01/1985	'BLANK_NO_NEW_INFO'
1123564865	Smith11	11/01/1985	'NEW_INFO'
1123564866	Smith12	12/01/1985	'BLANK_NO_NEW_INFO'
1123564867	Smith13	13/01/1985	'BLANK_NO_NEW_INFO'
1123564868	Smith14	14/01/1985	'BLANK_NO_NEW_INFO'
1123564869	Smith15	15/01/1985	'NEW_INFO'
1123564870	Smith16	16/01/1985	'BLANK_NO_NEW_INFO'
1123564871	Smith17	17/01/1985	'BLANK_NO_NEW_INFO'
1123564872	Smith18	18/01/1985	'BLANK_NO_NEW_INFO'
1123564873	Smith19	19/01/1985	'BLANK_NO_NEW_INFO'
1123564874	Smith20	20/01/1985	'BLANK_NO_NEW_INFO'
1123564875	Smith21	21/01/1985	'BLANK_NO_NEW_INFO'

Buttons: Make Status Check, Clear Results, Show New info only, Show All Rows

Organisation Name: ACME Corporation Employer Name: Lucas Webley

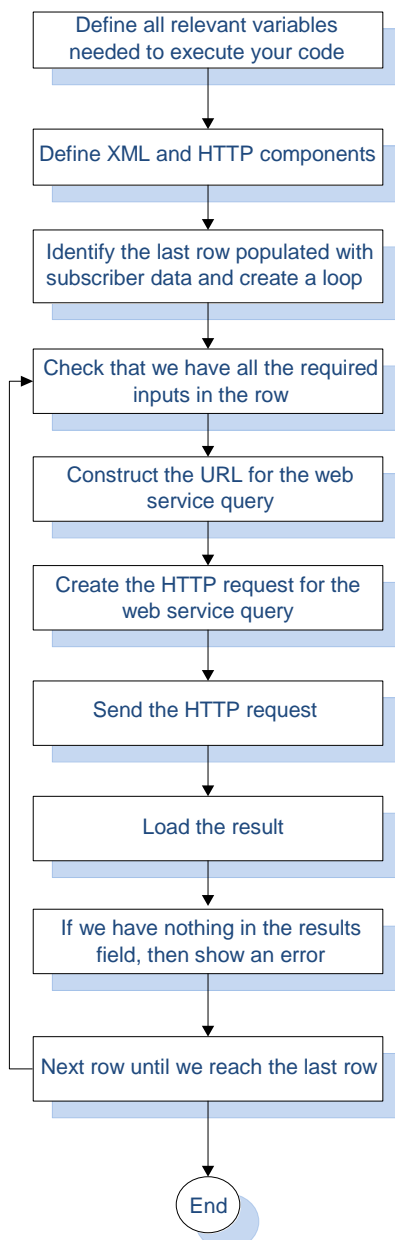
The input data used to construct the URL (mandatory information relating to the individual's DBS certificate) is captured in the first three columns of the table.

The required employer information (input data) is entered in the two fields situated below the main table. The indication of individual's consent is handled within the URL by default.

The process for calling the URL is executed via a 'Make Status Check' button situated on the right of the main table. The 'Make Status Check' button, when selected, runs a Visual Basic for Applications (VBA) code routine. The code gathers the required inputs, constructs the URL, retrieves the Status result and populates the Status result field in column four.

2.6 How do you call the URL?

This can be done in a variety of ways. In our example the URL is called via a simple coded routine invoked by an on-screen button. When the button is selected, the coded routine follows the process below:



2.7 What will XML result returned from the web service result look like?

The XML for the Multiple Status check result is as below:

```
- <statusCheckResult>
  <statusCheckResultType />
  <status />
  <forename />
  <surname />
  <printDate class="sql-date" />
</statusCheckResult>
```

An example Multiple Status check result would look like:

```
- <statusCheckResult>
  <statusCheckResultType>SUCCESS</statusCheckResultType>
  <status>BLANK_NO_NEW_INFO</status>
  <forename>BILLY</forename>
  <surname>JONES</surname>
  <printDate class="sql-date">2013-06-10</printDate>
</statusCheckResult>
```

2.8 Things to remember

Things to remember when building your front-end system:

- Your organisation must develop and maintain its own front-end system
- A front-end system can be as complex or as simple as your organisation wants it to be
- The Update Service Multiple Status Check facility is accessed via a web service
- The web service is the mechanism which exposes the back-end functionality of the Update Service to organisations
- The web service is called via a URL
- The URL is constructed using six mandatory inputs
- The mandatory inputs represent the information relating to an individual's DBS certificate, your organisation and confirmation of consent to carry out the Status Check
- All required inputs must be included within the URL to make a valid Status Check
- The DBS certificate inputs must match against an individual with a valid subscription to the Update Service or it will be rejected
- A Multiple Status Check is lots of single Status Checks happening in quick succession, and your front-end system must provide for this

3.0 Glossary of Terms

Abbreviation / Term	Description / Definition
API	Application Programming Interface
Application form reference	The number printed on the top right of the application form under the DBS logo, or the e-reference that may be supplied by the organisation who submitted an online DBS application.
Code/coding	Programming language
DBS	Disclosure and Barring Service
DBS certificate	The certificate produced by the DBS that is sometimes referred to as a DBS check or criminal record check.
DBS certificate reference number	The unique reference number printed on a DBS certificate.
Front-end system	The front-end programming interface (your organisation's system) set up to provide access to another system (DBS system).
HTTP	Hypertext Transfer Protocol. HTTP is the data transfer protocol used on the 'World Wide Web'.
Individual	The individual who has subscribed to the Update Service.
Inputs	The variables relating to individual and organisational information needed to construct the URL required to carry out a Status Check.
Integer	A whole number.
Multiple Status Check	Multiple Status Check requests which are submitted at the same time by an individual or organisation using the Multiple Status Check web service.
Status Check	An activity whereby an organisation or an individual makes an online check to see if the information on a DBS certificate is up to date.
Status result	The outcome of the Status Check of a DBS certificate.
Restful Web	The web service used by the DBS to facilitate the Multiple Status Check.
URL	An acronym for Uniform Resource Locator. A URL relates to a reference (an address) to a resource or web page on the internet.
Update Service Multiple Status Check facility	The service provided by the DBS to enable organisations to carry out Multiple Status Checks at the same time.
VBA	Visual Basic for Applications - a programming language used with Microsoft Applications.
Valid subscription	A subscription to the Update Service that is live at the time a Status Check is made.
Volunteer	A person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative.
Web service	An application programming interface (API) or Web API that is accessed via Hypertext Transfer Protocol (HTTP).



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

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

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee 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

Where an applicant or licensee 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 abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, 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

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 seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

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

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

Drugs

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.

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 five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

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 seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

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 five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

Committee: Licensing and Environmental Health Committee

Date:

Wednesday, 2
March 2022

Title: Manual DBS Policy implement

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 actions that the Licensing Team will take to address issues with the DBS Update service. These issues are matters over which the Council has no control.

Financial Implications

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

Background Papers

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

Appendix A – DfT Standards

Appendix B – Current Taxi and Private Hire Policy

Appendix C – Government Guidance on Manual DBS searches

Appendix D – Proposed changes to Policy

Impact

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	This policy change is necessary in order to document a gap in Uttlesford's policy for

	drivers who can only be issued with a 'Manual' DBS. It is hoped that it will provide clarity for Members and the public. Community safety and public safety is our
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	This ensures policy will be updated to cater for those drivers who can only be provided with a 'Manual' DBS certificate.
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

4. Mandatory DfT Standards specify that drivers' DBS status should be checked every 6 months either using the update service, or alternatively that drivers renew their DBS every 6 months – See Appendix A
5. The current Licensing Policy requires all drivers to subscribe to the DBS update service. This was implemented in March 2021. – See Appendix B
6. Government DBS Service has however recognised that in some individual cases, certificates need to be 'Manually' produced and the driver is therefore not able to sign up to the update service (see Appendix C), and such checks every 6 months would cost £330 over the duration of a driver's licence. Licensing Team recognise this additional cost may be burdensome, and therefore the Licensing Dept will carry out interim DBS checks on 'Manual' DBS holders at least every 18 months. It is anticipated that no more than 5% of drivers will be affected
7. Members are therefore requested to note the policy change required to enable this activity to be undertaken. – See Appendix D

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
2 - There is a need for the council to ensure its policy is up	2	2	2

to date and clear.			
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- 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.



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

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

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a [responsible organisation](#) to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee 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

Where an applicant or licensee 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 abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, 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

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 seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

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

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

Drugs

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.

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 five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

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 seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

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 five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

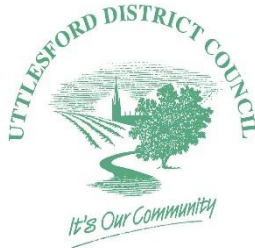
- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.



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 10th May 2021

Proposed Amendments – which were agreed at above meeting

- V. 2 13th 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.¹

- 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

¹ 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 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 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' court². 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

² 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’ licences⁸. 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.

⁸ 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 application⁹.

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 stated¹⁰. 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 determined¹¹.

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 NR3¹²

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 record¹³ 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 NR3¹⁴

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 years¹⁵.

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 disclosed¹⁶. 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 record¹⁸ 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 qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

¹ Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence
² [2007] 1 WLR 2067

- 1.3 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*².
- 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.

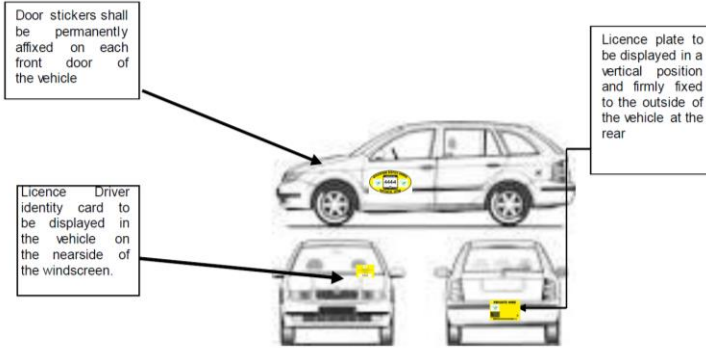
Surrender of Licence

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

Guidance

Manual DBS certificates

This factsheet provides a brief overview of manual DBS certificates, and how they differ from automated certificates.

From:

[Disclosure and Barring Service](#)

Published

6 May 2021

Applies to England and Wales

[Print this page](#)

Manual certificates are used in rare circumstances when an automated DBS certificate cannot be issued for Basic, Standard, Enhanced or Enhanced with Barred List(s) DBS checks.

A manual certificate looks different to an automated certificate, but the application itself will have gone through the exact same checking process. We aim to complete these within our usual published processing standards.

Manual certificates are produced at the end of the application process, at the 'DBS certificate printed' stage. We do however carry out extra quality assurance checks when producing manual certificates, so the application may be at this stage for a little longer compared to automated certificates.

The progress of applications can be checked using the [DBS tracking service](#).

After the manual certificate has been issued, the application must then be withdrawn from our system, and the tracking service will show 'no record found'. There may be a gap of up to four weeks between the manual certificate being issued the application being withdrawn.

A letter is sent by post to the Registered Body or Responsible Organisation, explaining that a manual certificate has been issued. If

the application was submitted electronically, this letter will also include the result notification that would be received normally.

Manual certificates and the DBS Update Service

Unfortunately, manual certificates cannot be used to join the DBS Update Service and they cannot be added to an existing Update Service subscription. If a manual certificate is used after an Update Service subscription has been paid for, a refund will be issued.

If you're unsure if a certificate is genuine

If you are unsure as to whether a DBS certificate is genuine, or you have concerns that it may have been altered in some way, you should contact DBS immediately at FDIT2@dbs.gov.uk.

More information about the security features of a DBS certificate can be found in our '[DBS checks: guidance for employers](#)'.

Please be aware that we are constantly striving to improve the services we provide, and this can occasionally lead to small changes to our IT systems. A recent change made to our systems means that Registered Bodies may experience a small, but temporary, increase in the number of manual certificates issued by DBS.

Published 6 May 2021

Appendix D

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 **if practicable for them to do so**, 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 **or is unable to so subscribe**, then they will be required to apply for a new Enhanced DBS Check **at regular intervals the Council may in its absolute discretion prescribe** and/or **seek to** 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.

Committee: Licensing and Environmental Health Committee

Date:
5/1/22

Title: Decision by Committee for all New Courses to be held around England rather than solely in Uttlesford

Report Author: Russell Way, Licensing and Compliance Manager

Summary

The purpose of this report is to seek the views of Members of the Licensing and Environmental Health Committee upon whether UDC approved “New Driver Courses” may be offered at hubs around the UK rather than only within the District.

Financial Implications

There are no cost implications to the Council in agreeing to this.

Background Papers

1. 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 Private Hire Policy

Impact

Communication/Consultation	This report is intended to assist members and the public understand the Councils policy and approach to licensed drivers.
Community Safety	This policy change is necessary in order to document a gap in Uttlesford’s policy for

	drivers who live and work away from the district.
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	Once voted this document will become live and implemented across the council.
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

- 1 On the 20th March 2019 the Licensing and Environmental Committee mandated a training day for all our drivers. The content of the training day is included within our current policy – Appendix A
- 2 A procurement process followed in collaboration with several other Essex Councils. After a challenging tender process Green Penny were awarded the contract for 6 years. The tender was for an in-person training day with the emphasis on peer to peer training.
- 3 That tender was to deliver the following
 1. A day's driver training course for all new drivers to be held within Uttlesford.
 2. A day's driver training course for all existing licensed drivers, capable of being delivered in person anywhere in England but in a manner that is cost effective to Green Penny.
 3. A half day 'Continuous Professional Development' Course for all licenced drivers every 3 years. As drivers are already licenced this course may be virtual. It will be implemented by spring 2024
- 4 New driver training courses started in June 2021 and existing drivers' courses started in July 2021. By 2024 all 2000 + licenced drivers will be trained. From that point only new drivers will need to complete the drivers training course and existing drivers will complete the half days CPD course. The current existing drivers' one day training course will become obsolete.
- 5 It is not cost effective for Green Penny to deliver the new driver training via two half day courses, and it is not within the original proposal accepted by members. However, we have a number of operators who work outside of

Uttlesford. This is not the case for our consortium partners. The majority of the non-Uttlesford based licenced drivers are engaged upon home to school contract work and do not transport the public at large.

- 6 The Committee are asked to reconsider their decision that new drivers be required to attend a training course at a venue within the district of Uttlesford. Members are asked to consider if new drivers may attend training days in other locations arranged by Green Penny and approved by the Licensing Manager in England.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
<p>2 = Some risk or impact – action may be necessary.</p> <p>There is a need for the council to ensure its policy is upto date and clear.</p>	<p>2 = Some risk or impact – action may be necessary.</p> <p>The council may be subject of legal activity such as a Judicial review if their policies are not clear and proportionate</p>	<p>2 = Some risk or impact – action may be necessary.</p> <p>There is no risk other than through a legal challenge if we have clear policies in place</p>	<p>2 = Some risk or impact – action may be necessary.</p> <p>Clarity by members is required at this point.</p>

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

This document was approved at the Environmental and Licensing Committee 10th May 2021

Proposed Amendments – which were agreed at above meeting

- V. 2 13th 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.¹

- 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

¹ 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 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 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' court². 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

² 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’ licences⁸. 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.

⁸ 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 application⁹.

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 stated¹⁰. 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 determined¹¹.

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 NR3¹²

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 record¹³ 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 NR3¹⁴

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 years¹⁵.

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 disclosed¹⁶. 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 record¹⁸ 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 qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

¹ Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence
² [2007] 1 WLR 2067

- 1.3 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*².
- 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.

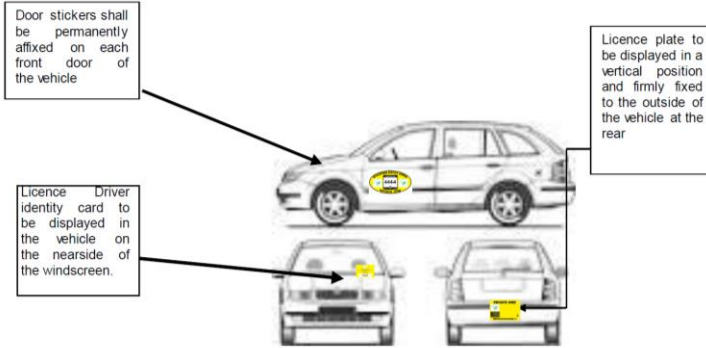
Surrender of Licence

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

Agenda Item 7

Committee: Licensing and Environmental Health Committee

Date:
1/2/22

Title: Updating Medical Process for drivers

Report Author: Russell Way, Licensing and Compliance Manager

Summary

The purpose of this report is to inform Members of the Licensing and Environmental Health Committee of changes in the process for the obtaining of drivers' Group 2 medical certificates

Financial Implications

There are no cost implications for the Council in agreeing to this.

Background Papers

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

Appendix A – DVLA Group 2 Medical Certificate form

Impact

Communication/Consultation	This report is intended to assist members understand the process changes being implemented by officers.
Community Safety	This change is intended to increase public

	safety and ensure policy is followed
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	Once voted this document will become live and implemented across the council.
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

1. All drivers licences are subject to the production of a satisfactory DVLA Group 2 medical certificate. This is a mandatory requirement.
2. Currently drivers attend a medical appointment to see a GMC registered medical practitioner who assesses their suitability. He/she does not have access to the driver's medical records. The process relies on the driver being honest about their medical history and their identity.
3. During this process there are two areas that could be improved on to reduce risk to both the public and the Council
 - The drivers are not asked to produce any official ID to prove that they are the person being assessed.
 - There is currently no requirement for the driver to produce any medical history
4. A meeting with the trade was arranged on Monday the 31st January 2022. The issues were discussed between Council officers and trade representatives. A number of resolutions were agreed. Once these are adopted it brings the Council into line with best practise as recommended by the Institute of Licensing.
5. As a result the following process was agreed and will be implemented from the 4/4/21
 - Drivers must bring their driving licence with them to the medical assessment
 - Drivers must take their NHS Summary care record with them to the assessment (or provide access through the NHS app)
<https://digital.nhs.uk/services/summary-care-records-scr>

- Drivers must complete the government medical report form prior to attending the medical. This can be viewed here https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1025895/d4-medical-examiner-report-for-a-lorry-or-bus-driving-licence.pdf
6. Assessing practitioners will be required to complete the government medical form and a new simplified UDC form which will indicate whether the driver is or is not fit to drive. The driver will keep their completed government medical form and submit the simplified UDC form to the Council with the rest of their application.
 7. In the fulness of time we hope to make these specific UDC consent forms electronic.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
<p>2 = Some risk or impact – action may be necessary.</p> <p>There is a need for the council to ensure its policy if followed.</p>	<p>2 = Some risk or impact – action may be necessary.</p> <p>The council may be subject of legal activity such as a Judicial review if their policies are not clear and proportionate</p>	<p>2 = Some risk or impact – action may be necessary.</p> <p>There is no risk other than through a legal challenge if we have clear policies in place</p>	<p>2 = Some risk or impact – action may be necessary.</p> <p>Clarity by members is required at this point.</p>

- 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.



D4 medical examination report for a Group 2, bus or lorry licence



Information and useful notes

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How to fill in D4

Please make sure you write within the white boxes and leave a space between each word. See example below.

S	a	r	a	h	M	o	r	g	a	n										
Date of birth		1	1	0	3	7	6													
Address		1	2	2	B	u	r	n	s											
		C	r	e	s	c	e	n	t											
		E	d	i	n	b	u	r	g	h										

When do you need a D4 medical examination report?

You will need a D4 medical examination report:

- if this is your first application for a Group 2 bus or lorry licence
- if you are applying to renew your Group 2 entitlement at 45
- from 45 on, a D4 will be needed every 5 years until you are 65 when you will need one annually
- if you are under 70, hold a medically restricted car licence and held this licence before 1 January 1997 and wish to apply for C1 or C1/D1 entitlement (vehicles below 3500kg and 7500kg and/or a maximum of 16 passenger seats)

- if you are applying for a new Group 2 provisional licence and a D4 has not been submitted in the last 12 months
- if you are a NI or EU or EEA driving licence holder whose authority to drive Group 2 in Great Britain has run out
- if you are 70 and still need C1 and D1 entitlement, you will need to have a D4 every 3 years.

Please note

You do not need to send in a D4 when you renew a medically restricted licence until you are 45. If you are over 45 and have a medically restricted licence, a D4 will be required every 5 years.

Further information is available at

www.gov.uk/driving-medical-conditions

Who can fill in the D4?

The medical examination includes a vision assessment which must be filled in by a doctor, optician or optometrist. Some doctors will be able to fill in both the vision and medical assessment.

If your doctor is unable to fully answer all the questions on the vision assessment you must have it filled in by an optician or optometrist. Please note that the doctor must be GMC registered and licensed to practice in the United Kingdom or registered within the EU.

If you use a different doctor, or a company providing this service, then all their details must be provided including their email address and contact number.

A. What you need to do

To check you meet the Group 2 medical standards:

- read section B of this booklet to find out if you can meet the medical standards needed for driving **before** you make an appointment. If you have any doubts about whether you can meet the standards or not, ask a doctor, optician or get further advice at **www.gov.uk**
- you should check when you make the appointment that the medical professional is able to measure your visual acuity to the 6/7.5 line of a Snellen chart. If you wear glasses to drive, the medical professional must be able to confirm the strength of your glasses (dioptries) from your prescription

If the doctor is unable to fully and accurately fill in the vision assessment you must arrange for it to be filled in by an optician or optometrist.

About your appointment

When you go to your appointment you should take:

- identification documents – a combination of two or more can be accepted as identification: birth certificate, marriage certificate, medical card, driving licence, passport, paid utility bills, bank or building

society cards or statements, National Insurance number card, payslip, letter from Benefits Agency, papers from Home Office

- your driving glasses and your glasses prescription if you wear glasses (not contact lenses) to meet the eyesight standard needed for driving
- a copy of your prescription if the medical is being filled in by a doctor other than your own GP
- this information booklet as it contains important information for the doctor, optician or optometrist

At the appointment you should:

- fill in the grey section on page 1 (left hand side) 'Your details' and page 8 (consent and declaration) along with your name and date of birth at the foot of all other pages on the D4 when you are with the doctor carrying out the medical examination

Check all sections of the medical report have been fully filled in. If you send us an incomplete report your application will be returned.

What to do with the filled in report

Send the filled in D4 (vision and medical assessment) with your application form and driving licence to DVLA, Swansea, SA99 1BR. If you do not send all the forms together, the processing of your application will be delayed.

What you need to know

- The D4 is valid for a period of 4 months from the date the doctor and optician or optometrist signs and dates it.
- The eyesight examination must be undertaken using the prescription currently worn for driving.
- DVLA is not responsible for any fees you have paid to a doctor, optician or optometrist. This also applies if you are unable to meet the medical standards of fitness to drive Group 2 vehicles and your application has to be refused.

If you develop a condition that could affect your ability to drive safely and you hold any type of driving licence, you MUST tell DVLA immediately. Please see section B.

B. Group 2 medical standards

Medical standards required for drivers of Group 2 vehicles (lorries, buses and minibuses) are higher than those required for Group 1 (car and motorcycle) drivers.

These standards also apply when renewing categories C1 (small or medium lorries between 3500–7500kg) and D1 (minibuses not for hire or reward) which were given when a car driving test was passed before 1 January 1997.

You can get more information about the medical standards from:

Drivers Medical Group
DVLA, Swansea SA99 1TU
Or, phone 0300 790 6806.

Vision assessment

Visual acuity

All drivers must be able to read in good light, with glasses or contact lenses if worn, a car number plate from 20 metres (post 01.09.2001 font) and have eyesight (visual acuity) of 6/12 (decimal Snellen equivalent 0.5) or better.

Applicants for Group 2 entitlements must also have, as measured by the 6 metre Snellen chart:

- a visual acuity of at least 6/7.5 (decimal Snellen equivalent 0.8) in the better eye
- a visual acuity of at least 6/60 (decimal Snellen equivalent 0.1) in the worse eye

This may be achieved with or without glasses or contact lenses. Snellen readings with a plus (+) or minus (-) are not acceptable e.g. 6/6-2 or 6/9+3.

If **glasses** (not contact lenses) are worn for driving, the spectacle prescription of either lens used must not be of a corrective power greater than **plus 8 (+8)** dioptres in any meridian.

If you cannot meet the above standard we may still be able to issue a Group 2 licence in the below circumstances.

If a Group 2 licence is held on 31 December 1996 and you have:

- a corrected visual acuity of at least 6/9 (decimal Snellen equivalent 0.6) in the better eye and 6/12 (decimal Snellen equivalent 0.5) in the worse eye
- an uncorrected visual acuity of 3/60 (decimal Snellen equivalent 0.05) in at least one eye

If a Group 2 licence is held on 1 March 1992 and you have:

- a corrected visual acuity of at least 6/12 (decimal Snellen equivalent 0.5) using both eyes together
- an uncorrected visual acuity of at least 3/60 (decimal Snellen equivalent 0.05) in at least one eye

You will also need to fill in a certificate about your recent Group 2 driving experience, DVLA will send this certificate for you to fill in once they get a valid application.

You will not be able to apply for any new lorry or bus entitlements that you have not previously held.

Car driving licence holders who are renewing category C1 (small or medium lorries between 3500 – 7500kg) need to:

- meet the number plate test, and
- have eyesight (visual acuity) of 6/12 (decimal Snellen equivalent 0.5) or better

Car driving licence holders who are renewing category D1 (minibuses not for hire or reward) must meet the eyesight standard for Group 2 drivers.

Monocular vision

Drivers who have sight in one eye only or their sight in one eye has deteriorated to a corrected acuity of less than 3/60 (decimal Snellen equivalent 0.05) cannot normally be licensed to drive Group 2 vehicles. The exceptions are:

1. You were licensed to drive Group 2 vehicles before 1 April 1991 and the Traffic Commissioner who issued the licence knew that you had sight in only one eye before 1 January 1991, you must have:
 - a visual acuity of at least 6/12 (decimal Snellen equivalent 0.5) if you held a Group 2 licence on 1 April 1983
 - 6/9 (decimal Snellen equivalent 0.6) if you were licensed after that date

DVLA will send you a certificate of experience for you to fill in once they get a valid application.

You cannot apply for new vehicle category entitlements – only those you had previously held.

2. You are applying to renew entitlement to drive category C1 (vehicles between 3500kg and 7500kg) that was granted with your Group 1 (car and motorcycle) licence if you had passed a car driving test before 1 January 1997.

Uncontrolled symptoms of double vision

If you have uncontrolled symptoms of double vision, or you have double vision treated with a patch, you will not be allowed to hold a Group 2 licence.

Intolerance to glare

If you have symptoms of intolerance to glare you will not be allowed to hold a Group 2 licence. Intolerance refers to a situation whereby the glare impairs or distorts vision, rather than those situations where it results in discomfort only.

Visual field

- The horizontal visual field should be at least 160 degrees.
- The extension should be at least 70 degrees left and right and 30 degrees up and down.
- No defect should be present within a radius of the central 30 degrees.

1. Neurological disorders

Epilepsy or liability to epileptic seizures

If you have been diagnosed as having epilepsy, (this includes all events: major, minor and auras), you will need to remain free of seizures without taking anti-epilepsy medication for 10 years.

If you have a condition that causes an increased liability to seizures, for example a serious head injury, the risk of you having a seizure must have fallen to no greater than 2% per annum prior to application.

If you have had only an isolated seizure, you may be entitled to drive lorries and buses 5 years from the date of the seizure, provided that you are able to satisfy the following criteria:

- no relevant structural abnormality has been found in the brain on imaging
- no definite epileptic activity has been found on EEG (record of the brain waves)
- you have not been prescribed medication to treat the seizure for at least 5 years since the seizure
- you have the support of your neurologist
- your risk of a further seizure is considered to be 2% or less per annum (each year)

DVLA must refuse an application or revoke the licence if you cannot meet these conditions.

You are strongly advised to discuss your eligibility to apply for your driving licence with your doctor before getting a D4 report filled in. See following conditions:

- a stroke or transient ischemic attack (TIA) within the last 12 months
- unexplained loss of consciousness with liability to recurrence
- Meniere's disease, or any other sudden and disabling dizziness or vertigo within the past year, with a liability to recurrence
- major brain surgery or recent severe head injury with serious continuing after-effects or a likelihood of causing seizures
- Parkinson's disease, multiple sclerosis or other chronic neurological disorders with symptoms likely to affect safe driving

DVLA must refuse an application or revoke the licence if you cannot meet these conditions.

2. Diabetes mellitus

Insulin treated diabetes

If you have insulin-treated diabetes you may apply for a Group 2 licence as long as you can meet the strict criteria for controlling and monitoring diabetes. This includes:

- having at least 3 continuous months of blood glucose (sugar) readings available for inspection on a blood glucose meter(s) with a memory function
- undertaking blood glucose monitoring at least twice daily (even on days when not driving) and at times relevant to driving (no more than 2 hours before the start of the first journey and every 2 hours while driving)

FGM and RT-CGM interstitial fluid glucose monitoring systems are not permitted for the purposes of Group 2 driving and licensing. Group 2 drivers who use these devices must continue to monitor finger prick capillary blood glucose levels. If you are able to meet all the criteria (see leaflet INS186) you will be required to undertake an annual assessment by a hospital consultant specialising in the treatment of diabetes. This will be arranged by DVLA.

Leaflet INS186 (A guide for drivers with diabetes who wish to apply for vocational entitlement) is available to download from www.gov.uk/diabetes-driving

Sulphonylurea or glinide treated diabetes

If you have diabetes treated with a sulphonylurea or glinide, for example Gliclazide, you must undertake blood glucose (sugar) monitoring at least twice daily and at times relevant to driving (no more than 2 hours before the start of the first journey and every 2 hours while driving).

3. Cardiac

Other medical conditions

An applicant or existing licence holder is likely to be refused a Group 2 licence if they cannot meet the recommended medical guidelines for any of the following:

- within 3 months of a coronary artery bypass graft (CABG)
- angina, heart failure or cardiac arrhythmia which remains uncontrolled
- implanted cardiac defibrillator
- hypertension where the resting blood pressure is consistently 180 mm/Hg systolic or more or 100 mm/Hg diastolic or more

4. Psychiatric illness

An applicant or existing licence holder is likely to be refused a Group 2 licence if they cannot meet the recommended medical guidelines for any of the following:

- psychotic illness in the past 12 months
- serious psychiatric illness
- if major psychotropic or neuroleptic medication is being taken
- dementia
- cognitive impairment likely to affect safe driving

5. Substance misuse

An applicant or existing licence holder is likely to be refused a Group 2 licence if they cannot meet the recommended medical guidelines for the following:

- alcohol or drug misuse in the past 1 year or alcohol or drug dependence in the past 3 years

6. Sleep disorders

Facts you should know about excessive sleepiness or tiredness and driving

There is no excuse for falling asleep at the wheel and it is not an excuse in law.

- Up to one fifth of accidents on motorways and other monotonous types of roads may be caused by drivers falling asleep at the wheel.
- 18 to 30 year old males are more likely to fall asleep at the wheel when driving late at night.
- Modern life styles such as early morning starts, shift work, late and night socialising, often lead to

- excessive tiredness by interfering with adequate rest.
- Drivers who fall asleep at the wheel usually have a degree of warning.
- Natural sleepiness or tiredness occurs after eating a large meal.
- Changes in body rhythm produce a natural increased tendency to sleep at two parts of the day:
Midnight to 6am and 2pm to 4pm.
- Although no one should drink and drive at any time, alcohol consumed in the afternoon may be twice as potent in terms of producing sleepiness and driving impairment as the same amount taken in the evening.
- Prescribed or over-the-counter medication can cause sleepiness as a side effect, always check the label if you intend to drive.

Medical conditions causing sleepiness

All drivers are subject to the pressures of modern life, but many drivers are unaware that some medical conditions also cause excessive sleepiness or tiredness. These, alone or in combination with the factors mentioned previously, may be sufficient to make driving unsafe. A road traffic accident may be the first clear indication of such a sleep disorder.

If you know you have uncontrolled sleepiness you MUST not drive.

Obstructive Sleep Apnoea (OSA) and Obstructive Sleep Apnoea Syndrome (OSAS)

OSAS is a condition which often goes undiagnosed. If it is not fully assessed and treated, this can cause sleepiness and other symptoms which can be a serious risk factor in road traffic accidents. For further details about how to recognise symptoms go to www.gov.uk/obstructive-sleep-apnoea-and-driving

You must tell us immediately if you are diagnosed with OSAS.

- OSAS is the most common sleep-related medical disorder.
- OSAS increases the chances of a vehicle crash by about five times.
- OSAS occurs most commonly, but not exclusively, in overweight individuals.
- Partners often complain about snoring and notice that the sufferers have breathing pauses during sleep.
- OSAS sufferers rarely wake from sleep feeling fully refreshed and tend to fall asleep easily when relaxing.
- Long distance lorry and bus drivers affected by OSAS are of great concern as most will be driving on motorway type of roads and the size or nature of the vehicle gives little room for error.
- Sleep apnoea affects on average about 25% of men and 10% of women.
- OSAS affects on average 4% of men and 2% of women.

- Sleep problems arise more commonly in older people.
- Lifestyle changes, for example weight loss or cutting back on alcohol, will help ease the symptoms of OSA.
- The most widely effective treatment for OSAS is Continuous Positive Airway Pressure (CPAP), this requires the patient to wear a soft face mask during sleep to regulate breathing. This treatment enables patients to have a good night's sleep, so reducing daytime sleepiness and improving concentration.

Other sleep related conditions

Illnesses of the nervous system, such as Parkinson's disease, multiple sclerosis (MS), motor neurone disease (MND) and narcolepsy may also cause excessive sleepiness or fatigue although sometimes these illnesses alone may cause drivers to be unfit for driving.

Tiredness or excessive sleepiness can be a non-specific symptom of Parkinson's disease, MS, MND or may also be related to prescribed medication.

Narcolepsy also causes daytime sleepiness and tiredness as well as other symptoms that may be disabling for drivers.

7. Other medical conditions

An applicant or existing licence holder is likely to be refused a Group 2 licence if they cannot meet the recommended medical guidelines for any of the following:

- any malignant condition in the last 2 years, with a significant liability to metastasise (spread) to the brain
- any other serious medical condition likely to affect the safe driving of a Group 2 vehicle
- cancer of the lung

C. Information for the doctor

- The applicant is liable for any costs involved.
- Ensure you confirm the applicant's identity before the examination. You will find a list of acceptable identification documents on page 3 of this booklet.
- Ensure you fill in your details and GMC number on page 1 and sign and date section 11 on page 7 of the D4.
- Only fill in the vision assessment if you are able to fully and accurately fill in all the questions. If you are unable to do this you must tell the applicant to have this part of the assessment filled in by an optician or optometrist.
- The applicant has been advised that if glasses are worn to meet the current eyesight standard for driving, they must bring their current prescription to the examination.
- The eyesight examination must be undertaken using the prescription currently worn for driving.

- If the applicant does not need glasses for driving, uses contact lenses or has a minus (-) dioptre prescription, question 2(d) of the vision assessment can be answered No.
- If you're carrying out an examination on behalf of a company or the examination was arranged through another company, then you must provide the details of that company.
- You should only provide a practice address if you are the applicant's GP or you are not acting on behalf of a company.

You must be able to:

- confirm the strength of glasses (dioptries) from a prescription
- measure the applicant's visual acuity to at least 6/7.5 (decimal 0.8) of a Snellen chart (you may need to purchase a new chart to do this)

We will not accept a Snellen reading shown with a plus (+) or minus (-) e.g. 6/6-2 or 6/9+3.

Examining the applicant

- The eyesight standards are explained in section B, 'Vision assessment' in this booklet.
- You must examine the applicant fully and fill in sections 1-11 of the medical examination report D4.
- Please obtain details of the applicant's medical history.
- Section 2 – please note that if diabetes is managed by treatments other than insulin or S&G medication, questions 2 a-d do not need to be answered.
- Any amendments must be signed and dated.
- Details of any condition not covered by the report should be provided in section 9 of the D4.
- If the applicant has a medical condition affecting their visual field, DVLA will commission formal visual field testing at a later date.

D. Information for the optician or optometrist

Anyone applying for a Group 2 licence must now provide a vision assessment as part of their D4 medical examination report. The vision assessment can be filled in by a doctor, optician or optometrist.

In some cases the doctor may not be able to fully fill in the report and will have advised the applicant to arrange an appointment with an optician or optometrist. The applicant is liable for any costs involved.

Please ensure you confirm the applicant's identity before the examination. You will find a list of acceptable identification documents on page 3 of this booklet.

Examining the applicant

- The eyesight standards are explained in section B, 'Vision Assessment' in this booklet.
- You must examine the applicant fully and fill in questions 1-7 of the vision assessment and provide any additional information in the box provided for details, this must not be done from patient records.
- If glasses are worn to meet the current eyesight standard for driving, the eyesight examination must be undertaken using the prescription currently worn for driving.
- The applicant's visual acuity should be measured in terms of the 6 metre Snellen chart but we will also accept the LogMAR equivalent. We cannot accept a Snellen reading shown with a plus (+) or minus (-).
- If the applicant has a medical condition affecting their visual field, DVLA will commission formal visual field testing at a later date.

Help for medical professionals

You may find it helpful to read DVLA's 'Assessing fitness to drive' guidance at www.gov.uk/dvla/fitnesstodrive Alternatively you can speak to one of the medical advisers by phoning 01792 782337 (10.30am to 1pm) or email medadviser@dvla.gov.uk

Unless you have the applicant's consent, we will only be able to discuss the medical standards in general.

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gov.uk/dvla

Driver Services

**D4 Medical Examination Report for a
Group 2, bus or lorry licence – Information
and useful notes**

DVLA
Longview Road
Morrison
Swansea
SA6 7JL

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www.gov.uk/driving-medical-conditions

Committee: Licensing and Environmental Health

Date: 02 March 2022

Title: Environmental Health (Commercial) Report on service performance during the Covid Pandemic.

April 2019 to March 2020 and April 2020 to present

Author: Tony Cobden Environmental Health Manager Commercial

Item for noting only

Summary

1. This report outlines to members the work of the Environmental Health (Commercial) Service as undertaken between April 2020 and January 2022, covering the period from the commencement of the pandemic and the introduction of national controls to the present.

Recommendations

2. That members note the contents of this report.

Financial Implications

3. None arising from this report.

Background Papers

4. Current codes of practice relating to Food Safety (FSA)
Food Standard Agency (FSA) Recovery plan as amended
The Food Hygiene Rating Scheme: Guidance for local authorities on implementation and operation – the Brand Standard
National Local Authority Enforcement Code (HSE)
Joint Action Plan for Outbreak Control (PHE and Essex Authorities)

Impact

- 5.

Communication/Consultation	None
Community Safety	No direct impact on community
Equalities	No impact on equalities
Health and Safety	No impact on employee health and safety
Human Rights/Legal Implications	All intervention work is carried out in accordance with existing legislative framework and the Council's enforcement policy.

Sustainability	Enforcement work undertaken in keeping with the principles of sustainability.
Ward specific impacts	No ward specific impact
Workforce/Workplace	No impact

Situation

6. Throughout the pandemic the main focus of Environmental Health (Commercial) Service has remained the protection and improvement of consumer safety, working conditions and to provide support facilitating a healthy population. Whilst primarily a statutory service Environmental Health sees its role not just to enforce regulations but to educate, advise and mediate, in order to ensure that people are able to live and work in safe, healthy environments.

The service is currently resourced by 1x FTE Environmental Health Manager, 1x PT Environmental Health Officer (EHO), 1x FTE graduate Environmental Health Officer, 2x FTE Environmental Health Technical Officers (EHT), 1x FTE Administrative Assistant and 1 x FTE Imported Food Administrative Assistant.

There are currently two vacant Environmental Health Officer posts and due to a national shortage of EHOs it has not yet been possible to fill these roles. The service has remained supported by agency staff, formally competent in food premises and food inspection as per Food Standards Agency (FSA) requirements. Additional Government grant funding has been made available to assist / backfill resourcing required to support the work generated by EU exit. The adequacy of staffing resourcing is continually monitored to ensure that the service is able to fulfil its statutory function and remain cost effective, operating within budgetary limits.

The EH Commercial team are responsible for a wide range of functions which include food hygiene and safety, health and safety enforcement, infectious disease control, imported food, port health control and the registrations of both premises and persons engaging in cosmetic practices such as skin piercing and tattooing. Details for these service elements are provided below.

7. Food Hygiene and Safety

The Council is designated as a Food Authority under the Food Safety Act 1990 and European Communities Act 1972 (as incorporated in UK law) and as such has a statutory duty to enforce all relevant food legislation.

This includes the inspection and allocation of a risk category (A- E) of all premises preparing, selling, or serving food to consumers including shops, restaurants, cafes, schools, residential care homes and home caterers. Inspection frequency is determined by risk and covers three main areas food hygiene practices, structure and cleanliness and effective documented management systems.

The Service is required to formally approve premises that manufacture products that contain meat, fish or dairy products and investigate food complaints and /or notifications of poor food hygiene practice. It supports the National Food Hygiene Rating Scheme which provides consumers with information on the current hygiene rating of a premises and pre pandemic delivered food hygiene courses for individuals who are involved in the handling of food.

There are currently 606 food businesses registered within UDC. This number while always subject to a degree of churn is now lower than the pre pandemic figures.

7.1 Impact of Covid on the food service

The Introduction of National Covid Controls, necessary to restrict the spread of the virus, impacted upon the way our local food businesses operate and the way in which the service could continue to effectively engage with them.

For the businesses this primarily manifested as reduced opening hours, diversification of business models, reduced staffing levels (with an inability to recruit), simplification or reduction of menus and significant financial pressures.

For Environmental Health this impacted with an increased number of new business operators registering (some with limited food hygiene knowledge), requests for advice on diversification and the need to rapidly develop virtual inspection techniques and other new ways of working.

New food businesses were a particular focus with dedicated resource being allocated. While most of these new businesses are by their very nature lower risk, a lack of appropriate food hygiene knowledge or understanding of food safety management including allergen awareness was identified to be a concern.

The food team is now moving through its recovery/ restoration phase implementing a strategy to address the premises inspection back log. This strategy has been drawn up with full regard to current FSA guidance which states, *“as a minimum, local authorities should deliver the official food controls and related activities set out in the Recovery Plan and, in the case of planned interventions, they should meet the timelines specified for realigning with the requirements of the Food Law Code of Practice.”*

The Uttlesford adoption of the recovery plan has consideration of the following.

If intelligence suggests risks have increased (irrespective of the risk category), we undertake interventions to assess and address those risks

When an onsite intervention is undertaken, we programme subsequent interventions in line with the Code of Practice. Should non-compliance be found at any intervention, we take appropriate action to secure compliance including formal enforcement action where necessary.

New food hygiene ratings are given where appropriate interventions are undertaken, and the establishment falls within scope of the Food Hygiene Rating Scheme (FHRS)

There is continued use of newer ways of working including remote assessment to help inform the need for onsite intervention at lower risk premises.

7.2 Moving forward - food hygiene workplan 2022/23

The recovery restoration plan remains on track to complete by the end of the year, with all outstanding higher risk premises (A to C) receiving a physical inspection by 31 March 2022.

Table 1 below shows the inspection backlog as it stood at the start of February 2022. It should be noted that the A rated premises indicated is due to be inspected in line with its scheduled routine inspection date which is 23 March 2022.

Table 1 Outstanding premises inspections

Risk Rating of premises	Outstanding as of 01 January 2022	FSA deadline under recovery plan	UDC Deadline	Additional Premises due 2022 Q 1-3
A rated (highest risk)	1	31 March 2022	31 March 2022	0
B rated	2	30 June 2022	31 March 2022	10
C rated	31	30 September 2022	31 March 2022	17
D rated	121	31/December 2022	30 September 2022	22
E rated (lowest risk) usually not subject to full inspection	82	No deadline	31 December 2022	57
Unrated	7	1	Completed	0
Total	237			106

The 2022/2023-year routine inspections would usually generate at around 90 inspections per quarter, but the inspection backlog is impacting these figures as without a current risk score the inspection date cannot project forward.

The figure of **106** additional inspections reflects those premises that have an historic risk score, it does not reflect those premises inspected or subject to an intervention since April 2019 but not yet allocated a new risk in line with current FSA requirements.

The inspection work is therefore anticipated to generate in line with previous numbers as traditionally reported. It is expected that Officers will adopt a business-as-usual approach from April 2022 and there will be a return to reporting traditional performance indicators.

8. Imported Food Control

The Service is divided into two areas dealing with Products of Animal Origin (POAO) and Foods of Non-Animal Origin (FNAO)

Products of Animal Origin (POAO) are presented at a dedicated facility. The Border Control Post at Stansted is currently authorised for the handling and processing of ambient products for human consumption such as whey protein, collagen supplements and canned fish. We are also authorised to deal with ambient, chilled, and frozen animal by products (ABP) such as pet chews and blood products, these blood products are used predominantly for research and very often in the manufacture of medical devices.

Foods of Non-Animal Origin (FNAO) are generally presented within the airport cargo sheds. The higher risk products are the main focus and include those deemed to be a 'known or emerging risk'. Examples of these are green beans from Kenya, tea from China and sweet peppers from Turkey. From a non-food perspective, we are also obliged to carry out official controls on melamine / polyamide kitchenware originating or consigned from China and Hong Kong. In order to facilitate the processing of these products, we need to ensure that the service is adequately resourced and that the personnel involved have the right level of training and where appropriate, the correct qualifications. With regards to the POAO, we are required under imported food law to employ the services of an Official Veterinarian (OV)

8.1 Current Delivery of the Service

UDC are permitted to recover all costs incurred whilst undertaking official controls, thus providing a cost neutral service to UDC.

Consignment numbers presented for checking and subsequent release or detention / destruction are relatively stable and by adopting some changes to working practices such as remote clearance, the service continued on a business-as-usual footing throughout the pandemic.

Table 2 Imported food consignments presented to the Stansted BCP

Foods of Non-Animal Origin (FNAO)	Year	Numbers of consignments presented for checking at the BCP
	2019	1834
	2020	1552
	2021	1791
Products of Animal Origin (POAO)		
	2019	1144
	2020	1427
	2021	1258

8.2 The Impact of EU Exit

This is expected to have an effect on the service and while we are currently in the interim phase this will begin to impact from July 2022. It is still being assessed as to exactly how much this impact will be and the team continue to work with DEFRA, Border Force and HMRC to establish firm figures and continue to monitor the situation as part of partnership contingency planning.

It is expected that the EU checks will be somewhat less intensive than non-EU checks. The identity and or physical check rate of non-EU shipments is 100%, and EU shipments will be less, possibly 1%, however, both EU and non-EU shipments will require 100% documentary checks. This process is a labour intensive activity and requires a sound knowledge of imported food legislation which does limit the recruitment pool should we need additional resource.

The recently received HMRC data offers the best estimated throughput for EU POAO between July 2022 and June 2023, all be it with a significant difference between the low forecast of 6,131 and high forecast of 40,703. These figures will become more accurate as we move towards the final implementation dates from July through to November.

We are still awaiting data on the expected throughput for EU High risk FNAO

In recognition of these potential challenges UDC have successfully bid for Government financial support and are utilising this money to enhance the ICT provision to the BCP facility. This will ensure that electronic checking systems are robust and will permit recruitment of temporary additional staffing resource during the implementation period of the full checking regime. Future resourcing costs can be met by cost recovery if required.

9.0 Health and Safety

The estimated national cost of injuries and ill health from poor working conditions including workplace injury runs into the billions of pounds.

UDC is responsible for enforcing health and safety legislation in a wide range of businesses in the commercial and service sectors. The work undertaken is a statutory function under the Health and Safety at Work, etc. Act 1974. Throughout the pandemic and moving forwards our aim is to ensure employees, contractors and members of the public are protected across all premises for which we have enforcement responsibility.

The approach to delivering this work is slightly different to that for food and is primarily governed by the National Code which is designed to ensure that Local Authority health and safety regulators take a consistent and proportionate approach to enforcement. Under this code the HSE actively review Local Authority annual returns on their inspection and advisory activities.

9.1 Impact of Covid

During Covid the focus has been on support for businesses by providing Covid compliance advice, some Covid enforcement work and acting as a consultee through the TENS / SAG process for event holders. While originally very high Covid related requests for advice from both business operators and members of the public dropped significantly as we moved through and came out of the lockdowns. The primary focus is now on event management risk rather than the hospitality sector and as the Covid regulations further reduce so will this area of work allowing a return to more of a business as usual footing. It should be noted that although official Government legislative control will stop, Covid will remain as a consideration for most businesses and be incorporated into the general risk assessment processes. We will continue to respond to complaints/concerns.

9.2 Moving forward Health and Safety workplan 2022/23

It is anticipated that from April 2022 the service will move to a business-as-usual approach to Health and Safety. This will include:

Planned interventions to specifically target Health and Safety issues at premises in business sectors annexed to the National Code, or where there is local intelligence of failure to manage risk.

Other contacts or interventions including face to face contact to educate, advise or engage duty holders, employees, or other bodies such as trade associations e.g. awareness days and advisory support visits. None face to face contact will include raising H&S awareness by providing mailshots or signposting to information packs.

Intelligence led duties will continue including visits to investigate Health & Safety related incidents generated by accident reports (RIDDOR) / statutory notifications

or H&S complaints. Visits may also be undertaken following requests for H&S advice from businesses.

10. Infectious Disease Control and Port Health

Throughout the pandemic the reports of communicable illness and infections potentially or actually contracted from eating or drinking at premises in the district, foreign travel or via non covid viral spread reduced. This being a direct result of lockdowns and other Covid controls minimising mingling and other forms of exposure. As we come out of these controls it is anticipated that cases will start to increase again. These will require investigation and potential sampling to determine the likely source, The Service will take remedial action and trace contacts to control the onward spread of infection. Our investigations will include cases of E. coli, salmonella, campylobacter, and norovirus amongst others, all of which are capable of causing serious illness and even death. Our Port Health functions operate in conjunction with the **UK Health Security Agency**, formerly Public Health England and include providing advice in the event of a sick passenger on board an aircraft, monitoring controls for malaria on board aircraft and ensuring the safety of food and water supplies for passengers and aircraft.

11. Performance during the Pandemic

Report of Service activity for Environmental Health (Commercial) April 2020 to present			
Activity Type		2019/20	20/21/22
Food Hygiene and Safety			
Total number food premises inspected or subjected to a physical intervention.		231	234
Additional food interventions			
<ul style="list-style-type: none"> • alternative strategy, • new businesses, • advice provision / alleged food poisoning investigations 		99	123
		101	221
		21	22
Inspection revisits		34	8
Formal Notices		0	0
Prosecutions		0	0
FHRS rescore request		15	7
FHRS appeal		0	2
Right to reply exercised		0	1
Food Hygiene Rating Scheme (FHRS) - current			
Premises awarded a rating of 5 - Very Good		177	349
Premises awarded a rating of 4 - Good		26	48
Premises awarded a rating of 3 - Generally Satisfactory		14	28
Premises awarded a rating of 2 - Improvement necessary		2	6
Premises awarded a rating of 1 - Major Improvement necessary		1	15
Premises awarded a rating of 0 - Urgent Improvement		0	3

necessary		
Health and Safety		
Face to face interventions	5	5
Other interventions	45	74
Visits to investigate incidents (RIDBOR)	21	34
Visits to investigate complaints	4	5
Revisits following an earlier intervention	0	1
Notices served	0	0
Covid related work		
Requests for general Covid advice		331
Covid complaints received alleging noncompliance	Not recorded	352
Covid cases follow up in the workplace		45
Covid monitoring visits		57
Event Advice		234
Infectious Disease Control		
Campylobacter	64	2
Cryptosporidium	10	1
Giardia	1	1
Salmonella	13	6
Typhoid	1	0
Legionella	1	1
Shigella	1	0
Registration of premises		
Registrations of premises	7	12
Registration of person : semi-permanent makeup	6	5
Registration of person : ear piercing	0	0
Registration of person : tattooist	1	3

12 Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Little or no risk or impact.	Minimal likelihood	No impact	No mitigating action required
Statements made and figures provided are found to be inaccurate	Accuracy of report contents verified via peer review	Report for information only	

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.

Agenda Item 9

Committee: Licensing and Environmental Health Committee

Date:

Wednesday, 2
March 2022

Title: Air Quality Update

Report Author: Marcus Watts, Environmental Health Manager
- Protection

Summary

1. Although there is no safe level of air pollution, the air quality in Uttlesford is not considered to be poor. The latest Annual Status concludes that there have been no measured exceedances of the national Air Quality Objectives for four years in a row. This gives the council grounds to examine whether the Air Quality Management Area (AQMA) designated in Saffron Walden in 2012 can be revoked.
2. With the introduction of the Environment Act 2021 the Environmental Health (Protection) service is waiting on new regulations and guidance before it introduces changes to its current air quality monitoring programme. New legally binding national targets are expected to be set for PM_{2.5} in 2022. Further, the responsibility for air quality improvements will now be shared across tier 1 and tier 2 authorities. This is intended to strengthen the council's approach to tackling air quality issues, should this be needed.
3. This report provides the Committee with an overview of status of air quality in Uttlesford. It also highlights changes in guidelines introduced by the World Health Organisation and outlines the implications of the Environment Act 2021.

Recommendations

4. None – for information only

Financial Implications

5. None

Background Papers

6. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - 2021 Air Quality Annual Status Report (ASR)
 - WHO global air quality guidelines 2021
 - Environment Act 2021

- Environment Act 2021: Frequently Asked Questions (Local Authorities) Feb 2022

Impact

7.

Communication/Consultation	None
Community Safety	There are no direct community safety implications associated with this report
Equalities	There are no Equalities Act implications
Health and Safety	No impact on employee health and safety
Human Rights/Legal Implications	All work in measuring and reporting on air quality conditions within the council will be carried out in accordance with existing legislative framework
Sustainability	The work connected with local air quality management is directly linked to sustainability and measures in keeping with the council's climate change goals
Ward-specific impacts	No specific impact on wards
Workforce/Workplace	Environmental Health (Protection) Service – from existing resources

Situation

8. Local authorities have a statutory duty for managing local air quality under Part IV of the Environment Act 1995. As part of these duties, District Councils have been required to review and assess air quality within their areas since 1997.
9. The council aims to ensure that the national Air Quality Objectives prescribed in Air Quality Regulations will not be exceeded. These objectives have historically been based on World Health Organisation Air Quality Guidelines and exist to protect people's health and the environment.
10. Most people are fully aware that air pollution can have damaging impacts on human health, productivity, amenity, and the health of the environment. Poor air quality is considered by the government to be the largest environmental risk to public health in the UK.

11. Epidemiological studies have shown that long-term exposure to air pollution (over years or lifetimes) reduces life expectancy, mainly due to cardiovascular and respiratory diseases and lung cancer. Short-term exposure (over hours or days) to elevated levels of air pollution can also cause a range of health impacts, including effects on lung function, exacerbation of asthma, increases in respiratory and cardiovascular hospital admissions and mortality. It is estimated that long term exposure to man-made air pollution has an annual effect equivalent to 28,000- 36,000 deaths.

12. In 2018, Public Health England modelled the cost of air pollution where there was robust evidence of an association. It concluded that between 2017 and 2025, the total cost of air pollutants, was £1.69 billion for PM_{2.5} and NO₂ combined (£1.54 billion for PM_{2.5} and £60.81 million for NO₂). Of the working age population, DEFRA estimated that in 2012, poor AQ cost the economy 2.7 billion through its impact on productivity.

13. Air Quality Annual Status (ASR) Report 2021

14. In September 2021, the council published its ASR in accordance with its statutory obligations. This reported on air quality concentrations collected in 2020 using two nitrogen dioxide continuous analysers, two Particulate Matter (PM₁₀) analysers and two PM_{2.5} analysers. The service also deploys 2 mobile Osiris particle monitors and two Aeroqual AQY sensors, each collecting further data on particulates and nitrogen dioxide. Nitrogen dioxide data was also collected across 31 other locations using diffusion tubes. These tubes are low cost and data from them is less accurate than the continuous analysers but is very useful to show long term trends and highlight hot-spot locations.

15. In 2020 there was a significant drop in annual average concentrations of nitrogen dioxide at roadside locations when compared to 2019. This was principally due to the impact of the COVID-19 pandemic. In 2020 all locations met the annual objective of 40µg/m³. Despite the unusual year, it is considered that the long-term trend for monitored concentrations is downwards. Chart A shows the trend in annual mean nitrogen dioxide concentrations within Saffron Walden. Chart B shows the trend in other locations within the district.

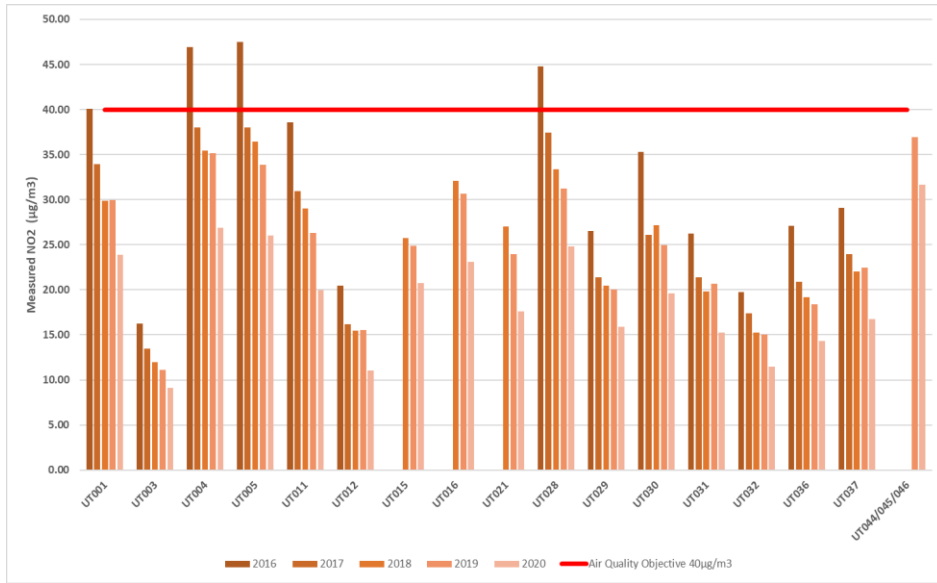


Chart A. Trends in Diffusion Tube Annual Mean NO₂ Concentrations in Saffron Walden (AQMA)

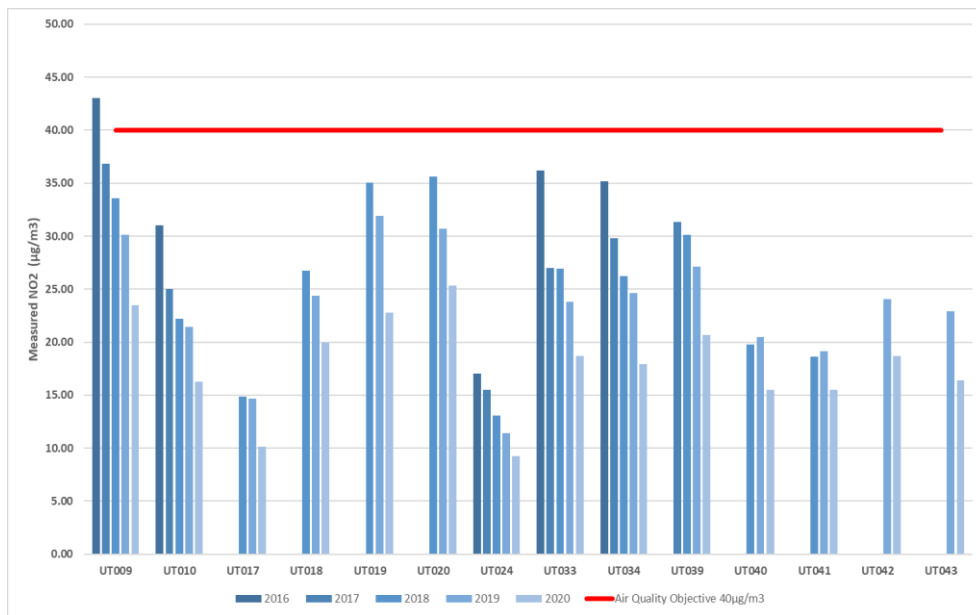


Chart B. Trends in Diffusion Tube Annual Mean NO₂ Concentrations District Wide (Non AQMA)

16. The impact of the COVID-19 pandemic on the level of particulate matter was less significant. This is because particulate matter is made up of many sources, some of which travel very long distances and stay in the air for a long time. Levels of particulate matter in the air at any given time are also strongly influenced by weather conditions. Surprisingly, annual mean PM₁₀ and PM_{2.5} concentrations were higher in 2020 than previous years. At no time in the past five years have PM₁₀ concentrations exceeded the objective levels (See Chart C). There are currently no set objective levels for PM_{2.5}.

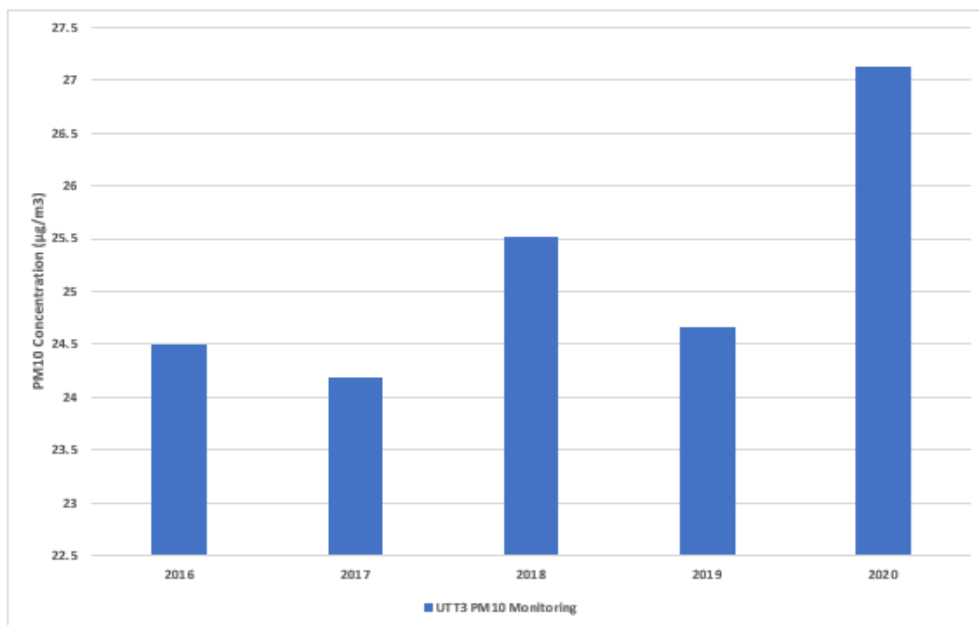


Chart C. Trends in Annual Mean PM₁₀ Concentrations

17. Based on the findings of the ASR, the council has grounds to examine whether their AQMA can be revoked. However, considering forthcoming changes proposed by regulations proposed under the Environment Act 2021, a review will be made alongside the Air Quality Action Plan in 2022/23. A copy of the full report can be found here: [Uttlesford 2021 ASR](#)

18. World Health Organisation – global air quality guidelines 2021

19. In September 2021 the WHO published a revised set of guidelines for PM_{2.5}, PM₁₀, ozone (O₃), nitrogen dioxide (NO₂), sulphur dioxide (SO₂) and carbon monoxide (CO). They update the previous guidelines issued in 2005 and are based on a review of evidence on the effects of air pollution on health, drawn from the last 16 years and more, by some of the world’s leading experts in the field.

20. It is important to note that these guidelines are not legally binding but they “provide WHO Member States with an evidence-informed tool that they can use to inform legislation and policy”.

21. Most significantly, these guidelines have been made more stringent, reflecting developments in health effects evidence. There has also been an alignment of the guidelines, with 24-hour values given for each of the pollutants (other than ozone), along with a series of interim targets for each.

22. The WHO Guidelines are aimed at providing guidance on the air pollution concentration required to avoid significant health effects in the general population. They do not specify how they are to be assessed, e.g. locations

where they apply, how they should be monitored, nor do they specify dates by when they should be attained. WHO states that the guidelines should apply to both indoor and outdoor settings. However, they should not be applied to occupational settings. To illustrate proposed changes in nitrogen dioxide and particulates, table 1 below outlines existing objective levels and table 2 details the changes that have been introduced.

Pollutant	Air Quality Objective: Measured as	Air Quality Objective: Concentration
Nitrogen Dioxide (NO ₂)	1-hour mean	200 µg/m ³ not to be exceeded more than 18 times a year
Nitrogen Dioxide (NO ₂)	Annual mean	40µg/m ³
Particulate Matter (PM ₁₀)	24-hour mean	50µg/m ³ , not to be exceeded more than 35 times a year
Particulate Matter (PM ₁₀)	Annual mean	40µg/m ³

Table 1. Existing AQ Objective Concentrations

Pollutant	Averaging time µg/m ³	Interim Target				2021 Guideline
		1	2	3	4	
Nitrogen Dioxide (NO ₂)	Annual	40	30	20	-	10
Nitrogen Dioxide (NO ₂)	24- hours	120	50	-	-	25
Particulate Matter (PM ₁₀)	Annual	70	50	30	20	15
Particulate Matter (PM ₁₀)	24- hours	150	100	75	50	45
Particulate Matter (PM _{2.5})	Annual	35	25	15	10	5
Particulate Matter (PM _{2.5})	24- hours	75	50	37.5	25	15

Table 2. WHO 2021 Guideline Levels

23. Currently, the UK Air Quality Objectives remain unchanged. While the values for the 2005 Guidelines and the UK Objectives were similar, they were not a direct transposition and the WHO does not intend that governments and policy makers simply cut and paste the guidelines into legislation. However, the Environment Act will require the Government to set a new target for PM_{2.5} and

to have regard to the WHO Air Quality Guidelines while doing so. Currently no numerical standard has been set. It should be noted that the guideline values for PM_{2.5} are 5 µg/m³ annual mean. In 2020 the annual mean for PM_{2.5} at London Road (UTT3) was 15 µg/m³. Reported levels using non-referenced sensors at Hill House and Thaxted were 9.5 and 11 µg/m³ respectively.

24. In terms of how the new guidelines impact at a district level, planning applications are typically determined against the objectives set in legislation and not the WHO guidelines. Thus, until such time as the values for the Objectives change, there is likely to be no practical consequence for determining planning decisions.

25. The Environment Act 2021

26. The long-awaited Environment Act 2021 received royal assent in November 2021, three years after a bill was first proposed. It is intended to set the scene on how environmental matters will be governed now the UK has left the EU.

27. The act sets out five environmental principles which are intended to underpin future government policy, contributing to the improvement of environmental protection and sustainable development. In addition, it sets up the Office of Environmental Protection (OEP). The OEP is new public body designed to hold government and other public authorities into account and may issue notices and legal proceedings. For district councils, the OEP can take action should an authority fail to take proper account of environmental law when carrying out its activities, for example, not properly regulating environmentally harmful activities it is responsible for permitting. This provides an additional layer of scrutiny on the work of the service, particularly relating to work concerning air quality, waste and contaminated land.

28. The Act gives the Secretary of State the power to set legally binding, longer-term environmental targets lasting at least 15 years across a variety of areas relating to the environment, namely, air quality, biodiversity, water, resource efficiency, and waste reduction. In doing so, it proposes to improve the environment, halt species decline and increase biodiversity.

29. In terms of air quality, the Act establishes a legally binding duty on government to bring forward at least two new air quality targets in secondary legislation by 31 October 2022. These are thought to be targets to reduce the annual mean level of PM_{2.5} in ambient air, and a long-term target (set a minimum of 15 years in the future). The government says that the “principle of a population exposure reduction target is to prioritise action that is most beneficial for public health and drive continuous improvement”.

30. Independent expert groups have been formed to advise the Government on the development of each of the targets and although consideration will be given to the latest WHO guidelines, it is not thought that these will be adopted in secondary legislation.

31. The Government is expected to run a consultation in February 2022 on the legally binding targets. With the adoption of these targets new statutory cycle of monitoring, planning, and reporting will be necessary. This will link in with the Government's Environmental Improvement Plan (EIP). The government must report annually on the implementation of the EIP and review it at least every five years.
32. The Act also amends the Environment Act 1995 to "strengthen the local air quality management (LAQM) framework to enable greater cooperation at local level and broaden the range of organisations that play a role in improving local air quality". Responsibilities for tackling local air pollution no longer rest with the district council but are shared with designated relevant public authorities, all tiers of local government and neighbouring authorities. It also introduced Section 83A to the Environment Act 1995, strengthening requirements of local Air Quality Action Plans. Councils must now demonstrate how they are proposing to secure that air quality standards and objectives are achieved rather than only 'working towards' achievement.
33. Finally, the Act also amends the Clean Air Act 1993 by replacing the criminal offence of emitting smoke from a chimney in smoke control areas (SCA) with a civil penalty. It also tightens up offences relating to sale of certain fuels. This will have no impact as there are no SCAs located in Uttlesford.

34. **Proposed AQ delivery plan for 2022/23**

35. A summary of proposed actions that the Environmental Health Protection Service is seeking to pursue in 2022/23 are given below:
- I. **Increased AQ monitoring.** The service monitors AQ throughout the district using 31 diffusion tubes. For 2022, 36 additional tubes will be deployed to assess NO₂ concentrations in proximity to schools.
 - II. **Clean Air Day (CAD)** – CAD is the UK's largest air pollution campaign, engaging in thousands of events, reaching millions of people. The service will plan a number of initiatives and will work with partners to raise awareness.
 - III. **Air Quality Management Area (AQMA) / Air Quality Action Plan (AQAP)– Review** – The service will review the implications of new AQ objectives and consider options for on-going AQ monitoring within the district. Furthermore, The AQAP sets out a range of challenging cross-cutting actions, many now link in with the Councils Climate Change plan. The current five year AQAP, approved in 2018 and should now be reviewed in 2022. The service will wait to see the outcome of the latest ASR and should this continue to show air quality concentrations below the objective levels, the service will seek consent to apply to revoke the AQMA.

Risk Analysis

36.

Risk	Likelihood	Impact	Mitigating actions
There is a risk of reputational damage and action by the OEP is the council does not fulfil its statutory functions in accordance with the Environment Acts 2005 and 2021	The Council has good an robust AQ monitoring provision in place	There is little to no impact providing that the council continues to monitor and report on AQ concentrations	Ensure that sufficient budget is maintained for AQ monitoring services.

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.

Committee: Licensing & Environmental Health

Date:

Title: Revised Policy relating to the Hackney Carriage & Private Hire Trades

02 March 2022

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

Item for decision:
No

Summary

1.1. The purpose of this report is to inform Members of the revision to the Hackney Carriage & Private Hire Policy following the Committee's adoption of the Service Level Agreement with the MOT testing stations that have been or are to be approved to undertake the Council's vehicle compliance test on its behalf.

Recommendations

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

Financial Implications

3.1. N/A

Background Papers

4.1. The following documents were referred to by the author in the preparation of this report and are available for inspection on request.

- A. Existing Policy (referred to as V2)
- B. Revised Policy (to be referred to as V3)

Impact

5.1.

Communication/Consultation	This report reflects a Policy decision previously agreed on by the Committee
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None

Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6.1. The existing Licensing Policy relating to the Hackney Carriage and Private Hire Trades was last revised on 10 May 2021, and for Members reference is attached as **Background Paper A**.

6.2. Following the Committee's adoption of the Service Level Agreement for MOT testing stations that have been or are to be approved to undertake the Council's vehicle compliance test on its behalf, on 16 November 2021, the Policy has been revised to reflect this change. The revised Policy is attached as **Background Paper B**. For Members assistance, the revision is the addition of *Appendix M* on Page 77.

6.3. For the interest of Members, following the adoption of the Service Level Agreement, 6 out of the previously 8 approved testing stations submitted their applications and continue to carry out compliance tests.

Risk Analysis

7.1.

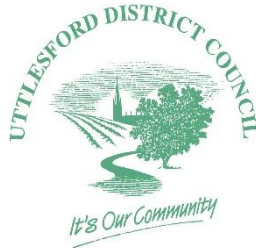
Risk	Likelihood	Impact	Mitigating actions
Little or no risk or impact	N/A	1	N/A

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

This document was approved at the Environmental and Licensing Committee 10th May 2021

Proposed Amendments – which were agreed at above meeting

- V. 2 13th 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.¹

- 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

¹ 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 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 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' court². 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

² 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’ licences⁸. 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.

⁸ 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 application⁹.

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 stated¹⁰. 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 determined¹¹.

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 NR3¹²

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 record¹³ 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 NR3¹⁴

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 years¹⁵.

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 disclosed¹⁶. 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 record¹⁸ 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 qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

¹ Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence
² [2007] 1 WLR 2067

- 1.3 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*².
- 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.

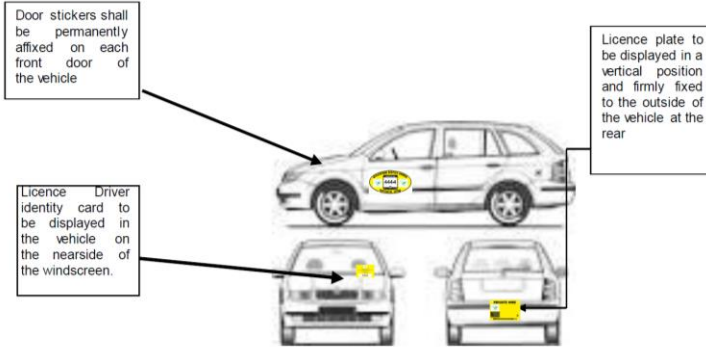
Surrender of Licence

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:

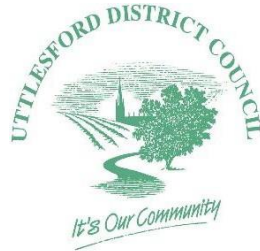
- The Equality Act 2010
- What equality means
- Civil and Criminal elements of the Act
- Reasonable Adjustment and what this means for drivers
- The risks of non-compliance (fines, criminal offences)

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



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 10th May 2021

Latest proposed amendments as agreed by Committee date stated below -

- V.3 16th November 2021 – Service Level Agreement Relating to Roadworthiness Testing of Hackney Carriages & Private Hire Vehicles in the District of Uttlesford

Last revision: 11/21

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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.¹

- 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

¹ 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 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 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' court². 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

² 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. 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.

⁸ 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 applications.

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 stated¹⁰. 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 determined¹¹.

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 NR3¹²

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 record¹³ 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 NR3¹⁴

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 years¹⁵.

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 for 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 disclosed¹⁶. 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 record¹⁸ 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 qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.

¹ Except vehicle proprietors. In those cases there is no “fit and proper” requirement, but the authority has an absolute discretion over granting a licence
² [2007] 1 WLR 2067
- 1.3 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*².
- 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.

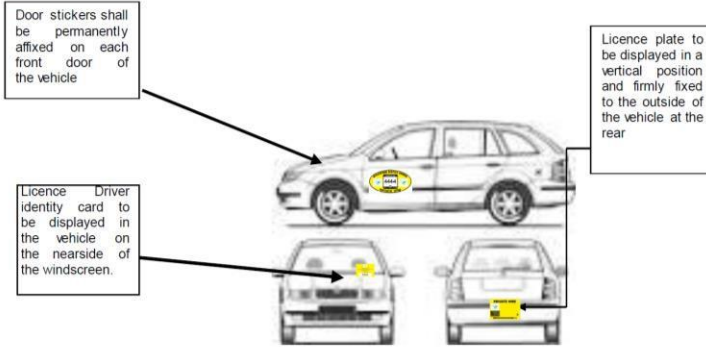
Surrender of Licence

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 safe-guarding vulnerable adults

APPENDIX M

Service Level Agreement Relating to Roadworthiness Testing of Licensed Hackney Carriages & Private Hire Vehicles in the District of Uttlesford

This document outlines the level of service expected by Uttlesford District Council (the Council) from any Provider wishing to carry out the mechanical and compliance testing of current and prospective Hackney Carriage (HC) and Private Hire (PH) Vehicles in order to ascertain a) their fitness for use as public service vehicles and b) their conformity with the Council's HC and PH conditions.

The Council will ordinarily only consider applications from Providers located inside the Uttlesford District. Where excess demand in the Hackney Carriage/Private Hire trade necessitates consideration of other nearby testing stations, then applications may be considered from providers located within a 5 mile radius from the District boundary.

Any Provider applying to become an 'authorised testing station' of the Council must read, understand and agree to the requirements within this document. The Provider will be notified in writing in advance of any alteration or amendment to this agreement which may be necessary as a result of any policy changes.

The Service

The Provider agrees to;

- **Carry out inspections of motor vehicles to ensure they meet the standards of fitness as set out in the current; (a) Vehicle Inspectorate MOT Inspection Manual, (b) Vehicle Compliance Testing Manual as issued by the Council for HC and PH vehicles, and, (c)**

HC and PH vehicle conditions and licensing standards as set out in the Council's Licensing Policy.

- To provide the Council with a documented list showing the names of members of staff who are proposed to undertake compliance tests held under this agreement. This list must be provided upon application and promptly updated as and when any changes in relevant staff occur. This information must be provided to the Council prior to those changes taking effect other than in exceptional circumstances.
- **Ensure that no one other than a qualified or accredited class 4 MOT tester who has been identified as such on the application form undertakes compliance tests on behalf of the Council.**
- Carry out compliance tests within five working days of a request by the proprietor of a vehicle, and to endeavour where possible to accommodate short notice requests within a minimum of 48 hours.
- **Contact the Council's Licensing Team immediately upon the failure of any vehicle to satisfy the requirements of the compliance test providing a copy of the compliance test sheet outlining the reasons for failure, excepting only when the failed item/s have been rectified and passed before the vehicle leaves the testing station site.**
- Provide the vehicle proprietor with the compliance test sheet immediately upon completion of the test, and to send a copy via email to the Council by the conclusion of the day in which the test was carried out.
- **Take and supply the Council with legible time stamped electronic photographs of the vehicle while at the testing station showing both the front and rear thereof, including registration plates. These are to be provided alongside the compliance test sheet. Where a vehicle is failed for any cosmetic reasons, a photograph evidencing this shall also be provided.**
- Have a CCTV surveillance system in good working order covering internal and external areas, and to make video

footage available upon request by authorized officers of the Council.

- **Ensure and be able to demonstrate that any tester who undertakes the testing of wheelchair accessible vehicles (WAVs) and their restraints, ramps and fittings, is suitably trained to do so.**

Management Responsibilities of the Provider

The provider will:

- **Inform the Council immediately in writing of any change to the operation of its business including (but not limited to); proposed sale or transfer of the Company or assets, bankruptcy, closure or enforcement action by the DVSA.**
- Notify the Council of any change to its vehicle testing station Risk Rating following inspection carried out by the DVSA.
- **Keep copies of all compliance tests carried out for a period of at least one year from the date of test and provide statistics showing the number of compliance tests carried out, the number of failed tests and reasons for failure for a period of at least 1 calendar year. These must be made available for inspection upon request by an authorized officer of the Council.**
- Ensure that all named testers authorised to carry out compliance tests on behalf of the Council are familiar with all aspects of the Vehicle Compliance Testing Manual as issued by the Council for HC and PH vehicles, and the HC and PH vehicle conditions and licensing standards as set out in the Council's Licensing Policy.
- **Charge a realistic inspection fee that covers the full cost of the vehicle compliance test inspection and any retests. The Council does not currently set the test fees and prefers to let market forces determine the fee payable, although it will consider setting the fee that can be levied if the circumstances arise.**

Monitoring the Service

- **The effectiveness and efficiency of the service will be the subject to ongoing review and analysis. This may include premises inspections, monitoring of service standards, compliance with the agreement, auditing of test standards, etc.**
- The agreement may be terminated by the Council at any time where the Provider has repeatedly failed to comply with the requirements of this agreement. The Council will inform the Provider in writing on any occasion it considers it to have failed to comply outlining the reason/s why, and will where practicable provide 28 days' written notice whereby termination is deemed necessary. However, where the Council considers the reason/s for termination to be of a serious nature and the notice period is therefore not appropriate, this decision can take immediate effect and will be communicated as such.
- **Where a Provider has received notice of termination, it will have 14 days from receipt of the notice to appeal the decision to an Assistant Director of the Council not involved in the termination process, who will issue a reasoned decision in writing 20 working days from receipt of the appeal. This decision will be final. Where a notice of termination is given with immediate effect, the Provider will not be permitted to operate under the terms of the contract until the appeal has been heard.**

Committee: Licensing & Environmental Health

Date:

Title: Enforcement Update

02 March 2022

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

Item for decision:
No

Summary

1.1. This Enforcement Update report is to inform the Committee of the enforcement activities carried out by Licensing Officers during the period of 01 November 2021 to 11 February 2022.

Recommendations

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

Financial Implications

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

Background Papers

4.1. None

Impact

5.1.

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

6.1. During December, all members of the Licensing Team took part in the annual Essex Police anti-drink driving campaign by visiting licensed premises in Uttlesford to offer guidance, advice and to hand out posters for display. Though the visits were predominantly for purposes of the campaign, the opportunity was taken to hand out drug swipes for the detection of cocaine and premises were asked to display small A5 sized posters in their toilets of a charity organization affiliated to Essex Police relating to domestic abuse awareness, so that any potential victim is discreetly provided with the necessary contact information for help. The Licensing Team achieved a total of 64 premises located throughout all areas of the district and it was very well received.

6.2. In the enforcement report from the previous Committee, reference was made to the reboot of Pubwatch schemes throughout Uttlesford, which is a joint venture between the Council and Police. Progress has been relatively slow due to the Christmas period and the surge in Coronavirus, however we are able to advise that the first PubWatch meeting was held in Stansted Mountfitchet on 1 December 2021, and as the representative from the Licensing Team present on that occasion it was excellent to see how well planned and conducted it was. The next is due in late February. The PubWatch for Great Dunmow and Saffron Walden are both expected to be initiated in the coming month. By the time of the next Committee, Licensing Officers should be in a position to confirm to Members that all three are up and running and funding for a new app for use by members of each PubWatch, known as DISC, should be secured.

6.3. Away from Premises, on 15 November, the Licensing Team also supported Essex Police in their catalytic converter theft awareness campaign by making joint visits to our three scrap metal yards.

6.4. On 18 November 2021 Licensing Officers conducted roadside checks of licensed Private Hire and Hackney Carriage vehicles at Stansted Airport. The next is due on 22 February.

6.5. There have been 9 Private Hire Operator inspections conducted during this period and any minor issues found were dealt with appropriately.

6.6. In respect of licensed hackney carriage and private hire drivers, there has been 1 licence revocation and 5 licence suspensions. These are broken down as follows;

- 1 revocation was following receipt of a Common Law Police Disclosure which declared that a licensed driver had been arrested for multiple offences. Due to the nature of the offences and the required timescales, the revocation was made with immediate effect under delegated powers by the Chair of the Licensing & Environmental Health Committee and Licensing Manager.
- 4 suspensions were as a result of Medical and/or DBS certificates not being received from the driver by the required date, or for identified medical conditions.

- 1 suspension was due to a driver who had failed to provide evidence of having taken a driving proficiency test in line with the Council's suitability policy for drivers with an accumulation of 9 or more points on their DVLA licence. The driver has since successfully completed the proficiency test and as a result had their suspension lifted.

6.7. In respect of licensed hackney carriage and private hire vehicles, there have been 11 licence suspensions.

- 8 vehicles were suspended following the failure of their compliance tests, all of which have now been retested and passed. 3 vehicles were suspended following accidents and associated damage, 1 of which has now been repaired.

6.8. A total of 24 complaints have been received during this period. These are broken down as follows;

- 20 complaints relating to drivers. The complaints mostly relate to either driving standards or driver behavior, with most being dealt with at Officer level.
- 4 complaints relating to vehicles. These consist of a licence plate not being displayed appropriately, parking matters, and an alleged failure to stop after an accident.

6.9. Licensing Officers have also visited a premises in Stebbing to meet new owners who took over at Christmas, and a premises in Saffron Walden following a complaint received by the Council's Environmental Services team from neighboring properties who had alleged noise nuisance and anti-social behavior. There was also a complaint made relating to a convenience shop in Saffron Walden that was alleged to have made underage sales of alcohol. Licensing Officers visited with Essex Police Licensing colleagues, and while no evidence could be found of the sales, the premises staff were given Challenge 25 posters for display and advice offered with the refusal register.