

North East Derbyshire District Council

Council

17 September 2018

Taxi Licensing Policy Review

Report of Councillor M Gordon, Portfolio Holder for Environment

This report is public

Purpose of the Report

- To consider approval of the Council's revised Taxi Licensing Policy.

1 Report Details

- 1.1 The Council previously approved a policy for the licensing of hackney carriages and private hire vehicles on 2013. In accordance with the Council's standard practice that policy has now been subject to a review.
- 1.2 The most significant change is in the format and layout of the policy. Previously we had a single document that incorporated all matters of taxi licensing. This makes it a less accessible document, and creates a bigger administrative burden when seeking to make amendments. By splitting the policy into 3 main parts (Vehicles, Operators and Drivers) it will make the documents less complex and easier to amend when required to do so. We have also significantly revised the wording of the policy to try and use more plain English wherever possible.
- 1.3 The key changes made to the contents of the policy are as follows:
- Drivers:
- The most significant change is the introduction of a new approach to the consideration of a driver's background. There is much more rigorous guidance for officers and members on how to treat convictions. This reflects the county-wide minimum standards that are currently being looked at across Derbyshire as part of the review led by the Chief Executive.
 - Currently drivers can take as many knowledge tests as they want, paying only once (through the licence fee). They will now have to pay for each time they attempt to take the test.
 - We have retained the requirement to undertake a practical driving test as a new test provider has been selected.
 - We have clarified the ages and intervals where regular medical tests are required after age 45.

- We have strengthened the requirement that all information must be received before an application is treated as properly received.
- The licence conditions around working hours have been improved and a general condition on providing information when requested has been added.
- The code of conduct has been removed as the provisions were voluntary anyway and therefore not enforceable.
- The Public Protection Points scheme has been removed. Officers have rarely used the scheme, finding common sense in enforcement against drivers (from warnings to committee referrals) to be more practical.

Vehicles:

- The addition of mandatory CCTV has not been added. This is a matter on which further discussion will take place with members at the meeting.
- Restriction added on advertising that could potentially obscure visibility through rear windows to improve safeguarding measures.
- The vehicle specifications have been greatly simplified and should ensure a common sense approach is taken to the approval of vehicles to be used as taxis. It will also allow electric/hybrid vehicles to meet the standards required to be used as taxis.
- No changes to licence fees have yet been proposed in respect of electric/hybrid vehicles, although a reduced fee to encourage use of such vehicles could be considered in future.
- We have also tightened the rules around seat numbers to ensure that the system cannot be abused, enabling a proprietor to add seats to a vehicles (e.g. minibus) after a licence has been obtained.

Operators:

- The most significant change relates to out-of-area operators. Previously policy has been to only licence such operators in exceptional circumstances. Following recent legal developments, and new advice received as a result, this has now been excluded absolutely. When existing operators' licences come up for renewal they will have to move at least part of their operating base within the district boundary or their licence will not be renewed. NB This will not prevent them having additional offices, or lawfully undertaking their work, outside the district.
- We have also strengthened the licence conditions to make operators more responsible for monitoring the conduct and suitability of drivers and sharing that information with the council where there is a problem.
- Operators will now be responsible for monitoring and reporting any safeguarding issues that arise.

1.4 In addition policies on enforcement and exemptions to Equality Act duties have been introduced. The enforcement policy reflects the corporate principles on the carrying out of enforcement and strengthens the sanctions to be used where existing licence holders commit offences or breaches of licence conditions. The Equality Act policy sets out the procedure under which licence holders can obtain exemptions from their duties in respect of assistance dogs or wheelchairs where they can demonstrate genuine medical grounds.

1.5 In December 2017 the Licensing Committee approved a draft Taxi Licensing Policy, incorporating the above changes, for consultation with the public and stakeholders. Following the conclusion of that consultation (which received only one external

response – from Derbyshire County Council) members of the Licensing Committee have recommended the attached final version of the policy documents to Council for adoption.

- 1.6 It is considered that the revised policy documents are fit for purpose, and that they reflect both best practice and the changing recognition of the role licensing plays in safeguarding.

2 Conclusions and Reasons for Recommendation

- 2.1 The new policies are fit for purpose, more flexible, and better reflect the recent focus on safeguarding and public protection.

3 Consultation and Equality Impact

- 3.1 The policies have been subject to a full public consultation, with only one external response received.
- 3.2 An equality impact assessment has been carried out with the cooperation of the Council's Equalities Panel. The assessment indicates the policy is generally more supportive of those with protected characteristics. Where it may disadvantage anyone it is a consequence of standards established to promote public safety making any potential discrimination justified.

4 Alternative Options and Reasons for Rejection

- 4.1 Leaving our current policy in place is not an option. It no longer fully reflects current priorities and fails to address a number of problems that have been identified in practice.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 None.

5.2 Legal Implications including Data Protection

- 5.2.1 Having a policy which is fit for purpose and clearer to Licence Holders and Applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review, with associated costs in defending the same.

5.3 Human Resources Implications

- 5.3.1 None.

6 Recommendations

- 6.1 That the revised Taxi Licensing Policy documents are approved.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
1	Taxi Licensing Policy: Drivers
2	Taxi Licensing Policy: Vehicles
3	Taxi Licensing Policy: Operators
4	Taxi Licensing Policy: Enforcement
5	Taxi Licensing Policy: Equality Act Medical Exemptions
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
<div style="border: 1px solid black; height: 30px; width: 100%;"></div>	
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Taxi Licensing Policy:

Hackney Carriage & Private Hire Drivers

September 2018

**CONTROL SHEET FOR TAXI LICENSING POLICY:
HACKNEY CARRIAGE & PRIVATE HIRE DRIVERS**

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Taxi Licensing Policy: Hackney Carriage & Private Hire Drivers
Current status - i.e. first draft, version 2 or final version	Consultation Draft
Policy author	Solicitor
Location of policy - i.e. L-drive, shared drive	
Member route for approval	Licensing Committee
Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council /Planning Committee	Council
Date policy approved	
Date policy due for review (maximum three years)	September 2021
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	At discretion of officers responsible for implementation.

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POLICY

1. Introduction

1.1 BACKGROUND

North East Derbyshire District Council has a responsibility for licensing hackney carriages and private hire vehicles, drivers and operators within the district of North East Derbyshire.

Any reference in this Policy to notifying, informing or otherwise contacting the Council means contacting the Council's Licensing Section.

Unless otherwise stated, where the term "Taxi" is used in this Policy it is a generic term including hackney carriages and private hire vehicles (which retain their specific meanings set out in the Glossary of Terms below).

1.2 ROLE OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

1.3 BEST PRACTICE GUIDANCE

The Department for Transport's Guidance considered views about what constitutes "Best or Good Practice" in terms of hackney carriage and private hire licensing. The Best Practice Guidance has, therefore, been used as an aid in shaping this policy. Regard has also been had to best practice learned from other local authorities.

1.4 CONSULTATION

There are a number of groups and organisations that have an interest in the provision of hackney carriage and private hire vehicle services, including the trade itself, residents and enforcers, all of whom have views and concerns that require consideration. In drawing up this policy, the Council has consulted with the following -

This list is not definitive -

- Authorities who border North East Derbyshire District Council
- Derbyshire County Council
- Other departments within North East Derbyshire District Council
- Members of North East Derbyshire District Council
- The hackney carriage and private hire trade including all licensed operators within the district
- Parish Councils
- Derbyshire Constabulary
- Derbyshire Police & Crime Commissioner
- Chief Fire Officer for Derbyshire
- Derbyshire County Council Trading Standards
- Derbyshire County Council Transport
- Child Protection Services (Safeguarding)

1.5 POWERS AND DUTIES

This Policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976 and other legislation under which the Council is the licensing authority for hackney carriage and private hire vehicles.

1.6 STATUS

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above.

Notwithstanding the existence of this policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from its policy, reasons will be given for so doing.

2. Scope

In setting out its policy North East Derbyshire District Council seeks to promote the following objectives -

- the protection of public health and safety;
- the establishment of a professional and respected hackney carriage and private hire trade;
- access to an efficient and effective public transport service; and
- the protection of the environment.

The aim of this policy is to regulate hackney carriage and private hire vehicles in order to promote the above objectives.

3. Principles

The aim of licensing the hackney carriage and private hire vehicle trades is, primarily, to protect the public as well as to ensure that the public have reasonable access to hackney carriage and private hire services because of the local transport provision.

It is important that the Council's powers are used to ensure that those who drive hackney carriages and private hire vehicles in the district are fit, safe and suitable.

4. Statement of Policy

4.1 PARALLEL PROCEDURES

The Council will usually issue combined Hackney Carriage & Private Hire Drivers' Licences.

The sections below apply equally to private hire and hackney carriage drivers unless stated otherwise.

4.2 AGE AND EXPERIENCE

In order to be licensed as a hackney or private hire vehicle driver, an applicant must hold a full driving licence issued in the UK, the European Community (EC) or one of the other countries in the European Economic Area (EEA).

The Council also requires all hackney carriage and private hire vehicle drivers who hold an EC/EEA driving licence to obtain a GB driving licence within 6 months of the grant of their licence.

A licence to drive a hackney carriage or private hire vehicle cannot be granted to a person who has not held a full driving licence for a period of 1 year or longer.

4.3 DRIVER TESTS

A licence to drive a hackney carriage or private hire vehicle will not be granted unless the Council is satisfied that the applicant is a fit and proper person.

In order to determine such fitness, applicants will be tested on various aspects of their knowledge and skills in order to help demonstrate that they are safe and suitable to hold a licence.

A non-refundable fee may be payable per test taken and/or retaken. Fees will not be refunded where a test booking is cancelled with less than 48 hours' notice.

Applicants can take no more than three tests in a 12-month period.

Applicants will be required to attend Council approved training in respect of both disability access and safeguarding. Drivers of Wheelchair Accessible Vehicles may be required to undergo additional training or examination.

4.4 DRIVING PROFICIENCY AND QUALIFICATIONS

Hackney carriage and private hire drivers are expected to have a higher standard of driving competency than the average driver.

All new applicants for hackney carriage and private hire vehicle driver licences may be required to pass such practical examination as the Council determines is appropriate prior to making their application.

Existing licensed drivers may be required to take such an assessment, either retrospectively or as part of a disciplinary process, and at their own cost, if it is felt appropriate by the Licensing Sub-Committee.

4.5 MEDICAL EXAMINATION

A medical examination by a General Practitioner (or other suitably qualified medical professional) to assess an applicant's fitness to drive a licensed vehicle is required before a licence may be granted. Applicants must provide a properly certified confirmation that they meet the DVLA Group 2 standard of medical fitness for professional drivers.

In addition to a medical examination undertaken at the time of applying, licence holders will be required to produce further medical certificates every 5 years, commencing at the first licence grant/renewal following their 45th birthday.

Licence holders over 65 must be examined annually.

The Council may reasonably require any licensed driver to provide additional certificates of medical fitness to drive, or any other relevant information, at any time where considered appropriate.

Licence holders must immediately advise the Council of any deterioration in their health, or of taking any medication, that may affect their driving capabilities.

Where there is any doubt as to the medical fitness of the applicant or an existing licensed driver, the Council may require the applicant to undergo and pay for a further medical examination by a nominated third party.

Any recommendations made by the doctor completing the driver's medical examination, at any stage in this process, will form additional conditions to be added to the licence. This can be done by officers acting under delegated powers.

4.6 DISCLOSURE & BARRING SERVICE (DBS) DISCLOSURES

An enhanced criminal record check on a driver is an essential safety measure.

Applicants for licences are required to disclose all convictions, including those that would otherwise have been regarded as spent under the Rehabilitation of Offenders Act 1974.

Failure to declare a conviction or other material fact may result in enforcement action, including immediate suspension or revocation of the licence pending investigation and may result in further legal action up to and including prosecution.

Before an application for a driver's licence will be granted, the applicant must provide a current Disclosure & Barring Service (DBS) check carried out via the Licensing Authority. A certificate of good conduct from the relevant embassy will also be required in the case of an overseas applicant. Certificates of good conduct must be in English or translated at the Applicant's expense.

Where certificates of good conduct cannot be obtained, or officers have concerns that an individual's record requires closer scrutiny, other methods of verifying an Applicant's history may be required.

Applicants must apply for the DBS check through the Council and will be charged an appropriate fee. When the applicant for a DBS Disclosure receives the disclosure report at their home address, they will be required to provide the Council with the original certificate.

All applicants will also be required to sign up to the DBS Update Service at their own expense and to authorise the Council to carry out status checks using the Service. Licence holders will then be required to maintain the Service at all times while licensed. If the update service lapses they will be required to apply for a new DBS Disclosure and renew their Update Service subscription at their own expense. Failure to do so could result in their licence being suspended.

Where officers have cause to require that a Licence Holder provides additional DBS checks these must also be provided in a timely fashion and at the Licence Holder's expense. Failure to do so may result in their licence being suspended or referred to the Licensing Sub-Committee for consideration.

Applicants will also be required to disclose, where relevant, any enforcement action taken against them by the Traffic Commissioner.

The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties unless deemed relevant for public safety or the prevention and/or detection of crime.

4.7 RELEVANCE OF CONVICTIONS, CAUTIONS & OTHER INTELLIGENCE

In considering the effect convictions and cautions recorded against applicants, or any other information received about an individual, the Council will apply the policy set out in Appendix B.

In assessing whether the applicant is a fit and proper person to hold a licence, the Council will consider each case on its merits. We will take account of cautions, convictions and other intelligence, but only in so far as they are relevant to an application for a licence. Upon receipt of a disclosure from the DBS, officers acting under delegated powers will assess whether the information is capable of having real relevance to the issue of whether or not the applicant is a fit and proper person to hold a licence.

The Council will have regard to the type and age of the offence or allegation, and the age of the applicant when the offence occurred, when considering their relevance to an application. Regard will also be given to the apparent seriousness of the behaviour, as indicated by the penalty.

Where officers have no concerns over an applicant's record they shall grant the licence using delegated powers. Where officers are not satisfied the applicant is clearly fit and proper they shall refer the application to Licensing Sub-Committee for determination.

Where drivers have been licensed prior to the adoption of this policy, and they no longer meet the standards expected as a result, their fitness to hold a licence will be reassessed against those revised standards. Where there is concern that an individual no longer meets the standard of a fit and proper person they will be referred to Licensing Sub-Committee for consideration.

4.8 APPLICATION PROCEDURE

An application for a hackney carriage or private hire driver's licence must be made on the specified application form and be accompanied by all necessary supporting documentation. The application shall not be considered complete until all required information has been submitted.

4.9 DURATION & RENEWAL OF LICENCES

The Council will issue licences for a period of 3 years unless circumstances are such that a shorter period is appropriate.

In cases of new applicants and renewals, if requested documents are not forthcoming within 6 months, an application will be returned as incomplete and a new application will need to be made. However the Licensing Sub-Committee may extend this period in exceptional circumstances.

Applications for renewal must be submitted sufficiently far in advance of the expiry of the previous licence. It is recommended that applications for renewal are submitted by return on receipt of a renewal letter, or in any event not less than 3 months prior to the current badge expiry date.

NB If no renewal letter is received. IT IS THE DRIVER'S RESPONSIBILITY TO BE AWARE OF THE DATE OF EXPIRY OF HIS LICENCE. If the driver believes he has not received his renewal letter at least TEN weeks before the expiry date they should contact the licensing department without delay. The Authority offers no guarantee that a Drivers Badge renewal letter will be received by licence holders and accepts no responsibility where this occurs.

It is the responsibility of the applicant to ensure all applications are submitted in time with all supporting documentation. Late applications cannot be guaranteed to be renewed before the previous licence expires. If the application is not submitted in time the driver will not be authorised to drive a hackney carriage or private hire vehicle, once the previous licence expires, until a new licence is granted. If the previous licence expires the applicant will have to make an application for a new licence, not a renewal. Late applications may only be accepted in exceptional circumstances, and documentary evidence to explain those circumstances will be required.

4.10 CONDITIONS OF LICENCE

The conditions set out in Appendix C are reasonably necessary and appropriate for all licensed drivers. They conditions will form part of all combined and private hire vehicle driver's licences.

4.11 CONVICTIONS

Where offences, leading to conviction or caution, are committed by licensed drivers, it is important in the interests of consistency and transparency, that a procedure should be in place to consider what effect this should have on their hackney or private hire driver's licence. Further detail is set out in the Taxi Licensing Policy: Enforcement document.

Licensed drivers who are convicted or cautioned for any offence, including fixed penalties, must disclose the conviction/caution and the penalty involved to the Council within 72 hours.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion, the appropriate officers as determined by the Council's delegations scheme.

This and other policies set out the principles that govern the Council's licensing of hackney carriage and private hire vehicle drivers, operators and vehicles. Minor modifications to conditions, specifications or procedures may from time to time be modified by officers acting under delegated powers, except where not appropriate to do so.

6. Glossary of terms

Throughout this document -

- "The Council" means North East Derbyshire District Council
- "Licensed Vehicle" means both a Hackney Carriage and Private Hire Vehicle
- "Hackney Carriage" means a vehicle of any form or construction, licensed for standing or plying for hire in any street
- "Hackney Carriage Driver" means a person licensed to act as driver of any hackney carriage
- "Private Hire Vehicle" means a licensed vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
- "Private Hire Driver" means a person licensed to act as driver of any private hire vehicle

- "Private Hire Operator" means a person licensed to make provision for the invitation or acceptance of bookings for a private hire vehicle
- "The Guidance" means The Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance October 2010.

7. Appendices

Appendix A to Appendix C follow.

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APPENDIX A

THE CONSIDERATION OF APPLICATIONS

1. Upon receipt of a properly made application form, an officer of the Licensing Section of the Council shall consider the application. Where the application is incomplete, it will not be considered until all the missing details or documents are supplied. If the application remains incomplete for 6 months, the application may be returned as incomplete and a new application may need to be made.
2. An applicant who has not passed all relevant tests will not normally be granted a licence.
3. If satisfied from the information available that the applicant is a fit and proper person to hold a hackney carriage and/or private hire licence, an officer acting under delegated powers has the power to grant or renew a licence.
4. Successful applicants will be notified in writing and issued with the appropriate licence. Those who are granted drivers' licences shall be issued with a driver's badge, which shall remain the property of the Council and must be returned on written request by an authorised officer. It must be worn at all times whilst the driver is at work.
5. Where an officer is not satisfied, on the information before them, that the applicant should be granted a licence, the matter must be referred to the Licensing Sub-Committee for a decision. The applicant will be advised of the date, time and venue of the Sub-Committee at which the application will be considered and invited to attend, accompanied by a representative if desired.
6. At the Licensing Sub-Committee meeting the Council's hearing procedure will be followed. The applicant will be informed of the decision immediately at the conclusion of the hearing, with written decision notices to follow where appropriate.
7. Applicants will be informed of their right to appeal against the decision to the Magistrates' Court within 21 days of receipt of the formal notice of refusal of the application.

APPENDIX B

RELEVANCE OF CONVICTIONS

1. GENERAL POLICY

1.1 Principles

This Appendix will act as guidance for the Council when considering the fitness and propriety of license-holders and applicants. In exercising this duty, the Council will consider the safety of the public as its primary consideration.

This policy provides guidance to the Licensing Sub-Committee and Officers with delegated powers on the criteria to take into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage and/or Private Hire drivers Licence. Any decision will be made on the balance of probabilities and not beyond all reasonable doubt.

Each application will be determined on its own merits. Some discretion to depart from these guidelines may be appropriate if the offence is isolated and there are mitigating circumstances. However the overriding consideration should be the protection of the public.

NB As a matter of law, where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction.

1.2 Fit & Proper

In seeking to safeguard the public, the Council seeks to ensure:

- That a person is a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II);
- That the person does not pose a threat to the public;
- That the public are safeguarded from dishonest persons; and
- The safety of children, young persons and vulnerable adults.

The term "Fit and Proper Person" for the purposes of licensing is not legally defined and in assessing whether someone may be "Fit and Proper" the Council will seek to establish that applicants are considered safe and suitable to hold a licence. The Council will take into account all available information, including information obtained from other local authorities, the Police and any third party organisations.

1.3 Considering Criminal Records

Listed below are some general principles relating to the determination of applications for drivers and operators which will generally be followed where convictions are admitted or otherwise identified.

In this guidance the word "conviction" includes convictions, cautions, warnings, reprimands, fixed penalty notices and other relevant information, including any enforcement action taken by other local authorities or the Traffic Commissioner. For custodial sentences the term "from date sentence has ended" is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. For non-custodial offences the relevant date will be the date of sentencing.

Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:

- Remain free of conviction for an appropriate period as detailed below; and
- Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence).

NB Solely remaining free of conviction may not necessarily be adequate evidence that a person is a fit and proper person to hold a licence.

1.4 Outstanding Charges or Summonses

If an outstanding charge or summons involves a serious offence and/or the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application should normally be put on hold until proceedings are concluded or the licence may be refused. Such cases will always be referred to the Licensing Sub-Committee with a view to refusal/revocation.

1.5 Non-conviction information

If an applicant has on one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application if the evidence supports this. In assessing the action to take, the safety of the public must be the paramount concern.

Where an applicant has had a Hackney Carriage/Private hire driver's licence revoked by any local authority, the Council will not normally grant a licence until at least twelve months has elapsed since the revocation. The applicant's previous licensing authority may be contacted for details of why the licence was revoked.

2. OFFENCES

The following guidance applies to new applicants and those cases where a licence holder is convicted during the period of their current licence.

All categories below are non-exhaustive, and include any similar offences (including attempted or conspiracy to commit) and any offences which replace those specified.

2.1 Serious offences against the person

Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence.

An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Kidnapping or abduction

A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) to those below unless at least 10 years have passed since the completion of any sentence and /or licence period:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault which is racially aggravated
- Violent disorder
- Threats to kill
- Resisting arrest
- Hate crime against a person
- Modern slavery

A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below unless at least 5 years have passed since the completion of any sentence and/or licence period:

- Racially-aggravated criminal damage
- Racially-aggravated offence
- Hate crime against property

A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and at least 3 years have passed since the completion of any sentence and/or licence period:

- Common assault/Battery
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Harassment
- Offences involving anti-social behaviour

A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

2.2 Possession of a weapon

If an applicant has been convicted of possession of a weapon or any other weapon related offence, depending on the circumstances of the offence, at least 3 years must have passed since the completion of the sentence, before a licence is granted.

2.3 Sexual and indecency offences

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. All sexual offences should be considered as serious. Applicants with convictions for sexual offences will be refused a

licence upon application/renewal or review. Existing licence holders will have their licence immediately revoked.

Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Grooming, Trafficking or other Sexual Exploitation related offences (adults and/or children)
- Making or distributing obscene material
- Possession of images depicting child sexual abuse.
- Sexual assault
- Indecent assault
- Exploitation of prostitution

In relation to indecency offences, an applicant should be free of conviction for at least 5 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer), if he / she has a conviction for an offence such as:

- Making indecent telephone calls
- Importuning
- Indecent exposure
- Soliciting (kerb crawling)
- Any offence occurring in the context of domestic violence

A licence will not be granted if an applicant has more than one conviction for an indecency offence.

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 any other similar register.

2.4 Dishonesty

A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

In general, a minimum period of 3 years free of conviction or at least 3 years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent

A licence will not normally be granted if an applicant has more than one conviction for dishonesty.

Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not normally be issued with a licence.

2.5 Alcohol & Drugs

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of convictions for drunkenness, including drunk and disorderly or drunk and incapable, could indicate a medical problem necessitating critical examination and refusal of licence.

In addition, the applicant will normally be required to show a period of 10 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

A licence will not normally be granted where the applicant has more than one conviction for offences related to the supply of drugs and has not been free of conviction for 10 years.

A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

If there is evidence of persistent drug use, misuse or dependency, a specialist examination (in accordance with the DVLA group two medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

2.6 Driving offences involving the loss of life

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. A licence will not normally be granted if the applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers

Before a licence is granted, an applicant should be free of conviction for 10 years (or at least 10 years must have passed since the completion of the sentence, whichever is longer) if the applicant has a conviction for:

- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers.

A licence will not be granted if an applicant has more than one conviction for any of these offences.

2.7 Driving offences involving alcohol and/or drugs

A serious view will be taken of convictions of driving, or attempting to drive, or being in charge of a vehicle while under the influence of drink or drugs. Where a disqualification has occurred

as a result of a drug or drink-driving offence, at least 5 years free of conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.

More than one conviction for this type of offence or one such offence within the last 5 years is likely to merit refusal.

In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic or drug addict.

2.8 Major Traffic Offences

A non-exhaustive list of traffic offences can be found in Appendix D.

Subject to the above paragraphs an isolated conviction for a major traffic offence, without disqualification, such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.

In cases of disqualification at least 3 years free from conviction after the restoration of the DVLA licence should normally elapse before an applicant is granted a licence.

Where an applicant has been convicted of a major traffic offence which has not resulted in disqualification, careful consideration should be given to the circumstances surrounding the offence. An application for a licence will normally be refused where the offence occurred less than 2 years prior to the application.

Where an existing licence holder is disqualified from driving as a result of a conviction for a major traffic offence, the licence will normally be revoked.

Where an existing licence holder is convicted of a major traffic offence, but the licence-holder is not disqualified from driving, the licence should normally be revoked or not renewed and any subsequent application for a new licence will be determined in accordance with the guidance above.

2.9 Minor Traffic Offences

A non-exhaustive list of traffic offences can be found in Appendix D.

Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account. If there are several minor traffic offences the applicant will normally be expected to show a period free of conviction of at least 6 months.

An applicant with 6-12 penalty points on their licence will merit further consideration and may be refused depending on the circumstances of the case. A licence will normally be refused where the applicant has 12 or more penalty points on his DVLA licence for minor traffic offences but has not been disqualified from driving.

Where an offence has resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard.

Generally, a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence.

Where an existing licence holder is disqualified from driving the licence will normally be revoked by officers acting under delegated powers.

2.10 Totting Up Disqualifications

Where a number of traffic offences has resulted in a driver receiving 12 penalty points or more on his/her licence the driver will be disqualified from driving unless the Court is satisfied that exceptional hardship would be suffered by an individual if disqualified. This is known as a “totting-up” disqualification.

Where an applicant has a totting-up disqualification an application will usually be refused until a period of between 12 months and 2 years has lapsed from the restoration of the DVLA licence depending on the seriousness of the offences which led to the totting up.

Where an existing licence holder is disqualified from driving as a result of a totting up, the licence will normally be revoked.

Where other, more serious, offences lead to disqualification an applicant will usually be refused until a period of at least 2 years has passed since their DVLA licence was restored.

2.12 Borderline traffic offences

Certain offences may not be clearly categorised as Major or Minor. Such offences will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

A non-exhaustive list of hybrid traffic offences can be found in Appendix D.

2.13 Plying For Hire

Any applicant who has committed an offence of plying for hire within the 6 months preceding their application will normally be refused a licence. Any existing licence holder found to have committed this offence will be judged on the circumstances of the case, and at the least suspension of the licence should be considered. Where a driver is convicted on more than one occasion the licence will be revoked or not granted. Consideration will be taken of whether at the time there was no insurance cover in place for the vehicle. It will be up to the applicant to prove that there was valid insurance in place at the time of the offence.

2.14 Insurance Offences

A serious view will be taken of convictions of driving a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years. However, strict warning should be given as to future behaviour. More than one of these offences would normally prevent a licence being granted or renewed. Isolated incidents associated with a licensing offence will not necessarily prevent a licence being granted or renewed. Each case will be prevented on its merits.

At least 3 years should elapse (after restoration of the DVLA driving licence), before a licence would normally be granted for a Hackney Carriage or Private Hire driver's licence.

3. OTHER OFFENCES AND SPECIAL CIRCUMSTANCES

If the applicant has declared any other offences not listed above or the circumstances of the case justify, an officer acting under delegated powers will, if he/she considers it appropriate, refer the application to the Licensing Sub-Committee for determination.

APPENDIX C

PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

The holder of a private hire driver's licence shall comply with the following conditions. In addition to the conditions set out below, any requirements set out in Part 4 of this Policy will form part of the Licence conditions.

1. CONDUCT OF DRIVER

- 1.1 At all times when working the driver shall wear the badge supplied by the Council ensuring it is clearly visible. He shall not permit any other person to wear it and on termination or surrender of a driver's licence, he shall return the badge to the Council immediately.
- 1.2 The driver shall behave in a civil, polite and orderly manner and shall take all reasonable precautions to ensure the safety of persons using the vehicle.
- 1.3 The driver shall not for any reason cause or permit the vehicle licence plate or signage to be concealed, obscured or defaced.
- 1.4 The driver will attend all bookings punctually unless prevented or delayed with good reason.
- 1.5 The driver will always drive to a destination by the shortest available route unless a different route has been agreed with the hirer.
- 1.6 The driver shall not carry in a vehicle more persons than the number specified on the vehicle licence.
- 1.7 The driver shall carry a reasonable amount of luggage if required, and offer reasonable assistance in loading and unloading luggage.
- 1.8 The driver must not solicit, by calling out or by any other means, any person to hire or be carried for hire. The driver will only carry passengers who have booked through a licensed Operator.
- 1.9 The driver shall ensure the vehicle is presented in a suitable condition for each journey.
- 1.10 The driver must only drive a private hire vehicle with the consent of the proprietor of the vehicle.
- 1.11 A driver must not eat or drink in the vehicle if asked not to by the hirer.
- 1.12 A driver must not play any radio or sound equipment (except that connected with the operation of the business) if asked not to by the hirer. The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any person, whether inside or outside the vehicle.
- 1.13 Smoking is prohibited in the vehicle at any time due to the Health Act 2006. The use of electronic cigarettes ("vaping") is also prohibited.
- 1.14 The driver shall not get the hirer's attention, as a means of signalling that the vehicle has arrived, by operating the horn or shouting.
- 1.15 The driver must not cause or permit the vehicle to stand on a road or in a public place as to suggest that it is available for immediate hire, or use any hackney carriage stand.

- 1.16 Drivers must not use a hand-held mobile telephone or other hand-held interactive communications device at any time the vehicle is in motion or stopped at traffic lights etc. A vehicle must be correctly parked before such equipment is used.

2 FITNESS OF DRIVER

- 2.1 The driver must not drive any private hire vehicle if they know of any medical condition which may affect their driving ability and the health and safety of themselves and/or any passengers. The driver must contact the Council immediately if this happens.

3 FARES AND JOURNEYS

- 3.1 The driver shall, if requested by the hirer, provide the hirer with a written receipt for the fare paid.
- 3.2 If the private hire vehicle is fitted with a faresmeter, then the driver of a private hire vehicle shall:
- bring the meter into operation at the commencement of the journey (unless the hirer wishes to engage by time or has agreed a fare in advance); and
 - not demand a fare in excess of any previously agreed for that hiring between the hirer and the operator or the fare shown on the face of the meter.

4 DUTIES OF LICENCE HOLDER

- 4.1 The Council must be notified of any change in circumstances affecting this licence, within 7 days of that change in circumstances.
- 4.2 The private hire driver's licence must be made available for inspection, on request, by any authorised officer of any Council or any Police Officer.
- 4.3 The driver must notify the Council, within 7 days of joining or leaving an operator, of the name and address of the operator concerned.
- 4.4 The private hire driver's licence must be presented to the operator concerned, before commencing work with that operator.
- 4.5 All licences, badges etc issued remain the property of the Council at all times. They must be returned immediately when the licence expires and is not renewed or where the licence is suspended or revoked.
- 4.6 The driver must notify the Council of any change of details, including their address, telephone number or email, within 7 days.
- 4.7 The driver must notify the Council, within 7 days, of any conviction or caution for an offence, or of any fixed penalty imposed on him/her whilst the licence is in force. Failure to disclose a conviction may result in an immediate licence suspension, pending investigation.
- 4.8 The loss or theft of any driver's licence shall be reported to the Council as soon as possible. In the case of theft, the Police must also be informed.

5 LOST PROPERTY

- 5.1 After every booking the driver shall carefully search the vehicle for any property which may have been accidentally left. Any property found should be taken as soon as possible (and in

any event within 48 hours) to an appropriate police station and left with the Police or the driver's Operator.

If the police decline to accept the property they should follow any police advice given. If in any doubt a driver should contact the Council for further advice.

6 ACCIDENT REPORTING

- 6.1 A driver shall report to the Council, within 48 hours, any accident to a private hire vehicle causing damage materially affecting the safety, performance or appearance of the vehicle, the comfort or convenience of persons using the vehicle, or risk of injury to any person.

7 THE CARRIAGE OF ANIMALS

- 7.1 A driver must not carry in a private hire vehicle any animal whilst it is being used as a private hire vehicle, except as provided for below.
- 7.2 Animals in the custody of passengers may be carried, at the driver's discretion, provided they are restrained in a safe manner.
- 7.3 A driver must carry assistance dogs if required. Assistance dogs include Guide Dogs for the Blind or partially sighted, hearing dogs for the hard of hearing and other assistance dogs which assist disabled people with a physical impairment. This includes dogs in training for such roles.
- 7.4 Any driver with a medical condition, which may be exacerbated by dogs, may apply for exemption from this condition. A certificate of exemption will be supplied in accordance with any relevant criteria and policy.

8 WHEELCHAIR ACCESSIBLE VEHICLES

- 8.1 All drivers of wheelchair accessible vehicles -
- must be suitably trained;
 - must be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle;
 - must, before any movement of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system, the brakes of the wheelchair have been applied and the passengers are suitably secured with lap/diagonal seat belts;
 - must ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger or injury is likely to be caused to those passengers or to anyone else, in accordance with the relevant regulations.

9 WORKING HOURS

- 9.1 Drivers will fulfil their responsibility to ensure compliance with legislation regarding the length of working hours.
- 9.2 The driver must not work excessive hours that may affect their ability to drive.
- 9.3 The driver must not drive when fatigued.

10 PROVISION OF INFORMATION

- 10.1 Where requested to do so by an Authorised Officer of the Council, the licence holder will provide a criminal record check, medical report, DVLA licence report or any other information,

at his own expense, so as to enable the Council to assess if the licence holder remains 'fit and proper' to hold a driver licence with the authority.

11 VEHICLE CHECKS

11.1 Drivers should check any vehicle they are driving on a daily basis to ensure the following are in legal working order:

- Lights
- Tyres/wheels
- Wipers
- Fluid levels
- Brakes
- Handbrake
- Wheelchair equipment (on wheelchair accessible vehicles)

A log of checks must be kept for a minimum of 12 months and should include details of any remedial work undertaken.

APPENDIX D

CATEGORIES OF MOTORING OFFENCES

1 MAJOR TRAFFIC OFFENCES

AC10 Failing to stop after an accident
AC20 Failing to give particulars or to report an accident within 24 hours
AC30 Undefined accident offences
BA10 Driving while disqualified by order of court
BA30 Attempting to drive while disqualified by order of court
BA40 Causing death by driving while disqualified
BA60 Causing serious injury by driving while disqualified
CD10 Driving without due care and attention
CD20 Driving without reasonable consideration for other road users
CD30 Driving without due care and attention or without reasonable consideration for other road users
CD40 Causing death through careless driving when unfit through drink *
CD50 Causing death by careless driving when unfit through drugs *
CD60 Causing death by careless driving with alcohol level above the limit *
CD70 Causing death by careless driving then failing to supply a specimen for analysis *
CD80 Causing death by careless or inconsiderate driving *
CD90 Causing Death by driving: unlicensed, disqualified or uninsured drivers *
DD40 Dangerous driving
DD60 Manslaughter or culpable homicide while driving a vehicle *
DD80 Causing death by dangerous driving *
DD90 Furious driving
DG60 Causing death by careless driving with drug level above the limit*

The above offences marked * are dealt with in the section entitled driving offences involving the loss of life

DR10 Driving or attempting to drive with alcohol level above limit +
DR20 Driving or attempting to drive while unfit through drink +
DR31 Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
DR40 In charge of a vehicle while alcohol level above limit +
DR50 In charge of a vehicle while unfit through drink +
DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR61 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive +
DR70 Failing to provide specimen for breath test +
DR80 Driving or attempting to drive when unfit through drugs +
DR90 In charge of a vehicle when unfit through drugs +
DG10 Driving or attempting to drive with drug level above the specified limit
DG40 In charge of a vehicle while drug level above the specified limit

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The above offences marked + are dealt with in the section entitled alcohol and drugs

IN10 Using a vehicle uninsured against third party risks
LC20 Driving otherwise than in accordance with a licence
LC30 Driving after making a false declaration about fitness when applying for a licence
LC40 Driving a vehicle having failed to notify a disability
LC50 Driving after a licence has been revoked or refused on medical grounds
MS50 Motor racing on the highway

UT50 Aggravated taking of a vehicle

TT99 Signifies a disqualification under the totting up procedure 12 or more points within three years

2. MINOR TRAFFIC OFFENCES

CU10 Using vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

CU80 Using a mobile phone while driving a vehicle

MS10 Leaving a vehicle in a dangerous position

MS20 Unlawful pillion riding

MS30 Play street Offences

MS40 Driving with uncorrected defective eyesight or refusing to submit to a test

MS60 Offences not covered by other codes

MS70 Driving with uncorrected defective eyesight

MS80 Refusing to submit to an eyesight test

MS90 Failure to give information as to the identity of driver etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations

PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle

PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

SPI0 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

SP60 Undefined speed limit offence

TS10 Failing to comply with traffic light signals

TS20 Failing to comply with double white lines

TS30 Failing to comply with a "Stop" sign

TS40 Failing to comply with direction of a constable/ warden

TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)

TS60 Failing to comply with school crossing patrol sign

TS70 Undefined failure to comply with a traffic direction sign

3. HYBRID TRAFFIC OFFENCES

CU10 Using vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

SP10 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

SP60 Undefined speed limit offence

Other non endorsable motoring offences i.e. no MOT

NOTE:

All offences in this Appendix may also include the following codes

Aiding, abetting, counselling or procuring:

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting:

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting:

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

DRAFT

DRAFT

Taxi Licensing Policy:

Hackney Carriages & Private Hire Vehicles

April 2018

**CONTROL SHEET FOR STATEMENT OF LICENSING POLICY: HACKNEY CARRIAGES, PRIVATE HIRE
DRIVERS, VEHICLES AND OPERATORS**

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Licensing Policy: Hackney Carriages & Private Hire Vehicles
Current status - i.e. first draft, version 2 or final version	Consultation Draft
Policy author	Solicitor
Location of policy - i.e. L-drive, shared drive	
Member route for approval	Licensing Committee
Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council /Planning Committee	Council
Date policy approved	
Date policy due for review (maximum three years)	September 2021
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	At discretion of officers responsible for implementation.

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POLICY

1. Introduction

1.1 BACKGROUND

North East Derbyshire District Council has a responsibility for licensing hackney carriages and private hire vehicles, drivers and operators within the district of North East Derbyshire.

NB. Any reference in this Policy to notifying, informing or otherwise contacting the Council means contacting the Council's Licensing Section.

Unless otherwise stated, where the term "Taxi" is used in this Policy it is a generic term including hackney carriages and private hire vehicles (which retain their specific meanings set out in the Glossary of Terms below).

1.2 ROLE OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

1.3 BEST PRACTICE GUIDANCE

The Department for Transport's Guidance considered views about what constitutes "Best or Good Practice" in terms of hackney carriage and private hire licensing. The Best Practice Guidance has, therefore, been used as an aid in shaping this policy. Regard has also been had to best practice learned from other local authorities.

1.4 CONSULTATION

There are a number of groups and organisations that have an interest in the provision of hackney carriage and private hire vehicle services, including the trade itself, residents and enforcers, all of whom have views and concerns that require consideration. In drawing up this policy, the Council has consulted with the following -

This list is not definitive -

- Authorities who border North East Derbyshire District Council
- Derbyshire County Council
- Other departments within North East Derbyshire District Council
- Members of North East Derbyshire District Council
- The hackney carriage and private hire trade including all licensed operators within the district
- Parish Councils
- Derbyshire Constabulary
- Derbyshire Police & Crime Commissioner
- Chief Fire Officer for Derbyshire
- Derbyshire County Council Trading Standards
- Derbyshire County Council Transport
- Child Protection Services (Safeguarding)

1.5 POWERS AND DUTIES

This Policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976 and other legislation under which the Council is the licensing authority for hackney carriage and private hire vehicles.

1.6 STATUS

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above.

Notwithstanding the existence of this policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from its policy, reasons will be given for so doing.

2. Scope

In setting out its policy North East Derbyshire District Council seeks to promote the following objectives -

- the protection of public health and safety;
- the establishment of a professional and respected hackney carriage and private hire trade;
- access to an efficient and effective public transport service; and
- the protection of the environment.

The aim of this policy is to regulate hackney carriage and private hire vehicles in order to promote the above objectives.

3. Principles

The aim of licensing the hackney carriage and private hire vehicle trades is, primarily, to protect the public as well as to ensure that the public have reasonable access to hackney carriage and private hire services because of the local transport provision.

It is important that the Council's powers are used to ensure that hackney carriages and private hire vehicles in the district are safe and comfortable.

4. Statement of Policy

4.1 VEHICLES - HACKNEY CARRIAGE AND PRIVATE HIRE

The Licensing Authority must ensure that the district has hackney carriage and private hire vehicles that are of the highest safety standards and meet the needs of residents and visitors to the district.

4.1.1 LIMITATION OF VEHICLES

The Council does not currently limit the age or emissions levels of vehicles that will be licensed. This position will be kept under review and may be reconsidered in future if supported by evidence.

At present, the Council do not limit the number of hackney carriages. If it takes the view that a quantity restriction can be justified in principle, the level at which the limit is set shall be determined by means of a survey.

4.1.2 SPECIFICATIONS, CONDITIONS AND LIVERY

All vehicles licensed by the Council will meet the minimum requirements set out in Appendix A.

4.1.3 VEHICLE IDENTIFICATION

Both hackney carriages and private hire vehicles are required to display a plate on the front and rear of the vehicle. This is a key feature in helping to identify vehicles that are properly licensed.

Private hire vehicles licensed are also required to display such additional signage as the Council considers appropriate.

4.1.4 SECURITY/CCTV

It is not currently proposed to make CCTV in vehicles a mandatory requirement. This position will be kept under review and may be reconsidered in future if supported by evidence that there is a problem or significant risk that should be addressed.

However where a proprietor chooses to install CCTV in their vehicle that system must be compliant with any relevant data protection and privacy laws. They must inform the Council within 7 days of installing a CCTV system.

4.1.5 APPLICATION PROCEDURES

Applications for a vehicle licence must be made in accordance with the Council's requirements. All information requested must be provided before an application is considered to be complete. Incomplete applications will be rejected.

All licences granted will specify the name, surname and address of every person who is a proprietor or part proprietor of the licensed vehicle. Where an owner is an incorporated body the full name, company number and registered office address shall be specified.

4.1.6 GRANT AND RENEWAL OF LICENCES

Hackney carriage or private hire vehicle licences will be granted for 6 months from the date of grant, subject to the power to grant a licence for a shorter period, should this be appropriate in the circumstances.

All vehicles must be tested on renewal, i.e. at every 6 month interval. The test must take place at a testing station approved by the Council. No licence shall be granted or renewed until such time as the vehicle has passed this test.

These requirements are in addition to an MOT, which for hackney carriages is required at 1 year old and thereafter.

The testing of hackney carriages and private hire vehicles is more stringent than a standard MOT. All vehicle specifications and conditions will be subject to scrutiny. Also, mechanical testing will be carried out to a higher standard than the MOT because licensed vehicles generally travel many times more miles than other vehicles between tests.

National guidance on testing standards will be adopted, subject to any local adjustments deemed necessary.

For renewals the application forms, appropriate fees and supporting documentation must be submitted in sufficient time prior to the expiry of the previous licence. It is the licence holder's responsibility to ensure that their vehicle licence is renewed appropriately.

Late applications will only be accepted in exceptional circumstances, and documentary evidence to explain those circumstances will be required.

Where licence holders surrender their licence prior to their expiry date, the Council will not make any refund in respect of the unexpired portion of the licence fees.

4.1.7 EXCEPTIONS

Applications in respect of any vehicle which doesn't meet the specifications required in this Policy will be referred to the Licensing Sub-committee for consideration.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion, the appropriate officers as determined by the Council's delegations scheme.

This and other policies set out the principles that govern the Council's licensing of hackney carriage and private hire vehicle drivers, operators and vehicles. Minor modifications to conditions, specifications or procedures may from time to time be modified by officers acting under delegated powers, except where not appropriate to do so.

6. Glossary of terms

Throughout this document -

- "The Council" means North East Derbyshire District Council
- "Licensed Vehicle" means both a Hackney Carriage and Private Hire Vehicle
- "Hackney Carriage" means a vehicle of any form or construction, licensed for standing or plying for hire in any street
- "Hackney Carriage Driver" means a person licensed to act as driver of any hackney carriage
- "Private Hire Vehicle" means a licensed vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
- "Private Hire Driver" means a person licensed to act as driver of any private hire vehicle
- "Private Hire Operator" means a person licensed to make provision for the invitation or acceptance of bookings for a private hire vehicle
- "Certificate of Compliance" means a certificate confirming that a licensed vehicle has passed the Council's vehicle test

- "Suspension Notice" means a notice prohibiting further use of a licensed vehicle until such time as a defect has been remedied to the satisfaction of the Council
- "Defect Notice" means a notice identifying a defect to a licensed vehicle which must be remedied to the satisfaction of the Council (issued under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976)
- "Meter" means any device for calculating the fare to be charged in respect of any journey in a hackney carriage or private hire vehicle by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both
- "The Guidance" means The Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance October 2010.

7. Appendices

Appendix A follows.

APPENDIX A

VEHICLE SPECIFICATIONS AND CONDITIONS OF VEHICLE LICENCES

1 GENERAL

All licensed vehicles shall:

- Comply with Road Traffic legislation
- Have one of the following vehicle type approvals:
 - EC Whole Vehicle Type Approval;
 - EC Small Series Type Approval;
 - National Small Series Type Approval; or
 - Individual Vehicle Approval
- Be right-hand-drive
- Be one of:
 - a 4-door saloon vehicle;
 - a 5-door hatchback, estate vehicle or people-carrier;
 - a wheelchair-accessible vehicle;
 - a multi-purpose vehicle (MPV); or
 - in the case of hackney carriages, a purpose-built “black cab” type vehicle.
- Not have been written off for insurance purposes at any time
- Enable any person in the vehicle to communicate with the driver
- Be maintained in sound and roadworthy condition
- Not be fitted with any modification which increases risk to passengers, pedestrians or other road users.

2 DOORS

All saloons, estates or purpose built hackney carriage vehicles shall have at least four side opening doors, which are capable of being opened from the inside and the outside.

Minibuses, wheelchair-accessible vehicles, and people carrier type vehicles shall have at least three doors not including any tailgate or rear doors. All such vehicles must carry a safety hammer, capable of being used to break the glass of the vehicle, which is securely located in the driver’s compartment.

All vehicles shall be constructed so that the doors open sufficiently wide as to allow easy access into and egress from the vehicle.

All vehicles must have sufficient safe and suitable access and egress from the vehicle for the driver and all passengers.

3 SEATS

Passenger seats must be of a size and design considered safe and comfortable.

Where a minibus or similar vehicle is capable of carrying more than 8 passengers, excess seating must be removed – and the fixings/wheelchair restraints disabled – before a licence shall be granted.

Where seats have been removed the vehicle shall not be licensed until the log book has been amended to accurately record the remaining number of seats.

The vehicle log book must accurately reflect the number of seats and the vehicle type approval.

NB For the purposes of this Policy a wheelchair counts as one seat/passenger.

4 SEAT BELTS

All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried, fully compliant with British National Standards except where the law specifically provides an exemption.

In relation to the carriage of Child Passengers, vehicles must comply with current seatbelt legislation.

5 PASSENGER CAPACITY

The Council will determine the maximum number of passengers a vehicle will be licensed to carry. At no times shall the vehicle carry more than the permitted number of passengers. A child of any age, irrespective of how transported, is counted as one passenger.

A vehicle will not be licensed to carry more passengers than the number of seats displayed on the log book.

6 VENTILATION

Vehicles must have windows at the rear and sides along with means of opening and closing not less than one window on either side.

Rear passenger windows must be capable of being opened by passengers when seated, unless air conditioning is available.

7 LUGGAGE

Luggage carried must be safely stored and not obstruct any exit.

8 MAINTENANCE AND CONDITION OF THE VEHICLE

The vehicle shall at all times:

- Be kept in a clean and safe condition inside and outside
- Be free of large dents, rust or unrepaired accident damage
- All seats in the vehicle must function in accordance with the original manufacturer's specification
- Have wheels and tyres which are legal and roadworthy. Tyres should have uniform load rating and be appropriately set to the manufacturer's specification (including tracking, balancing, pressure etc).
- Vehicles with tyres found to have a tread between 1.6mm and 2.0mm may have their licence suspended under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 until the tyres have been replaced.
- Carry a serviceable spare wheel and tyre, jacking equipment and wheel brace, securely stored. Alternatively a contract must be in place with a reputable roadside recovery/tyre replacement company to attend and replace the wheel/tyre.
 - Space savers are acceptable but a conventional wheel and tyre must be fitted at the earliest available opportunity and, in any case, prior to commencing any future journey.
 - An emergency puncture repair kit will be considered as an acceptable alternative only where supplied as standard by the manufacturer.

9 MODIFICATIONS

No material alteration or change in the specification, design, condition or appearance of the vehicle may be made while the licence is in force without first complying with road traffic and insurance legislation and secondly without the approval of an officer acting under delegated powers.

10 LICENCE PLATES AND STICKERS

All plates, signs, side stickers, etc remain the property of the Council and must be surrendered to an Authorised Officer upon request following suspension or revocation of a vehicle licence.

Except as provided below, at all times while the vehicle is licensed as a hackney carriage or private hire vehicle, there shall be securely fixed to the exterior front and exterior rear of the vehicle the appropriate vehicle licence plates supplied by the Council. Magnetic plates are not permitted.

The maximum number of persons to be carried is identified on the vehicle licence plate referred to above.

At all times while a vehicle is licensed there shall be displayed on the dashboard and rear passenger windows stickers which identify the vehicle as either a private hire or hackney carriage vehicle. On these will be displayed the registration number of the vehicle and the number of passengers permitted to be carried.

The proprietor of the vehicle shall ensure the plates remain affixed to the outside and inside of the vehicle, as appropriate.

Within one week of a licence expiring or being surrendered, revoked or suspended the vehicle licence holder shall return the expired licence and vehicle plates to the Council.

11 PLATE EXEMPTIONS

Vehicle proprietors may apply to the Council for an exemption from the requirement to display external plates on a vehicle. Vehicles shall only be granted an exemption where the following criteria are met:

- The vehicle is considered to be of a prestige marque and/or specification;
- The vehicle is to be used exclusively for pre-booked executive transportation;
- The vehicle is not to be used for any other purposes;
- An exemption notice shall be issued which must be carried in the vehicle at all times;
- The plates must be securely installed inside the boot/tailgate of the vehicle;
- Any change in circumstances must be immediately reported to the Council.

These requirements shall, where an exemption is granted, be considered to be part of the vehicle licence conditions.

Where an exempt vehicle is found to be in breach of these conditions, e.g. being used for town centre bookings or school contract work, the exemption will be revoked.

When considering whether to grant an exemption the Council will have regard to the type of work undertaken, the customer expectations or requirements and the type of vehicle being licensed.

We will not normally consider vehicles to be of an executive nature where they carry advertising and/or additional signage relating to the company

NB “Executive transportation” means where the vehicle is used specifically to provide transport under a written contract to a company or person, or by the type of clients who, for security or personal safety reasons, would not want the vehicle to be identifiable.

12 LIVERY, SIGNAGE & ADVERTISING

Livery – Hackney Carriages

Hackney carriages can be painted any single colour (other than black or white) with a white bonnet and boot/tailgate.

An exception will be made for substitute hackney carriages following damage or an accident (for a maximum period of 1 month) if the substitute vehicle is licensed appropriately.

Livery – Private Hire Vehicles

Private hire vehicles shall be painted **1 COLOUR ONLY**. They shall not be painted to resemble a hackney carriage.

Advertising – All Vehicles

Both hackney carriages and private hire vehicles are required to display a plate on the front and rear of the vehicle. This is a key feature in helping to identify vehicles that are properly licensed. In the context of this policy “plate” includes any identifying licence markings or device irrespective of the material or means of fixing to the vehicle.

Private hire vehicles in the district are also required to display such signage as the Council deems appropriate.

All licensed vehicles must display signage indicating which operator it is working on behalf of.

No sign or advertisement shall cover, obscure or be confused with the vehicle’s licence plate or any signage required to be displayed by these conditions.

Vehicles will be required to display the legally required no smoking signage.

Vehicles capable of carrying passengers in a wheelchair may display the relevant signage.

Operator Advertising

Advertising/signage limited to the Operators name and contact details (and meeting the Council’s specifications) shall be displayed on all vehicles carrying out private hire work. All vehicles except those exempt from displaying licence plates must carry operator signage.

Third Party Advertising

Any other advertising will only be permitted with the express consent of the Council. The content, type and location of such advertising shall be entirely at the discretion of the Council.

The advertising of tobacco or related products, alcohol or related products, sexual entertainment venues, sexual content or other hackney carriage/private hire organisations is strictly prohibited.

Hackney Vehicle Signs

Hackney carriage vehicles must carry an illuminated roof sign, which can be marked "TAXI", to indicate availability for hire. The roof light must be extinguished at all times when the meter is in use or the vehicle is located outside the district of North East Derbyshire.

Private Hire Vehicle Signage

A private hire vehicle must not carry any roof sign or any markings that might give the impression that it is a hackney carriage.

Any advertising or signage on the vehicle must not include the words "taxi", "cab", "hackney carriage" or similar.

13 DEPOSIT OF LICENCES

Before a proprietor permits any other person to drive a private hire vehicle they shall make a copy of that person's PHV driver's licence. The copy licence must be kept until such time as the driver ceases to be permitted or employed to drive that vehicle.

The proprietor of the vehicle will provide evidence to the operator that the vehicle is licensed.

The loss or theft of any vehicle licence shall be reported to the Council as soon as possible. In the case of theft, the Police must also be informed.

14 COMMUNICATION DEVICES

Any radio, PDA or other mobile communications device must be:

- of a type that can be safely operated while driving; and
- fitted securely and not in a position to obstruct vision or impede driving.

The use of a Citizen Band (CB) transmitter, radio scanner or receiver by a driver is prohibited.

15 METERS

Hackney Carriages

A meter must:

- be fitted and be correctly calibrated, sealed and fully functional
- calibrated in accordance with the current Council approved fare structure
 - NB If a meter can be calibrated electronically without manually adjusting the device a certification of calibration will be required.
- be used for the duration of all hire journeys except those ending outside the district where a fixed fare was agreed at the outset
- easily visible to passengers & properly illuminated during hours of darkness
- fixed in place so it cannot be tampered with
- when in operation, display clearly a fare which doesn't exceed the maximum permitted
- if altered for any reason, be immediately made available to the Council for testing and resetting/resealing (or a certificate of calibration provided for an electronic meter)

A GPS system used for calculating fares is not a meter.

Private Hire

Fitting a private hire vehicle with a meter is optional. Any meter fitted to a private hire vehicle must be calibrated, sealed and fully functional.

In any vehicle with a meter the current fare chart shall be clearly displayed in the vehicle or a notice displayed indicating that hire charges for the vehicle are not set by the Council but are a matter of negotiation with the hirer.

16 TRAILERS

Trailers may only be used with the prior approval of the Council and subject to the following requirements:

- trailers can only be used in connection with pre-booked work and cannot be used for plying for hire on a rank;
- the trailer must at all times comply with all requirements of Road Traffic Legislation.
- the vehicle insurance must include cover for towing a trailer;
- trailers must not be left unattended anywhere on the highway;
- a suitable lid or other means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

17 DISABILITY ACCESS

Where a vehicle is used to carry a passenger in a wheelchair:

- Wheelchair access must not be obstructed
- The wheelchair and occupant must be safely secured using manufacturer-approved anchor points and restraints
- Access ramps/lifts and other equipment must be properly tested, maintained in good working order and available for use at all times. Any equipment must be properly fixed in place before use and securely stored at any time the vehicle is in motion.
- Any driver of such a vehicle must have received sufficient training to safely load and convey wheelchair user passengers

18 VEHICLES POWERED BY LIQUID PETROLEUM GAS (LPG)

Any vehicle that has been converted to run on LPG must have a certificate issued by a member of the relevant regulatory body confirming satisfactory installation, examination and testing of the vehicle.

If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be securely stowed in a location that doesn't make the vehicle unsuitable for carrying passengers.

19 TINTED WINDOWS

The windows or windscreen of any vehicle may only be tinted to the manufacturer's standard specification.

Exceptions will be permitted for private hire vehicles where all the following requirements are met (which shall be conditions of the licence):

- the vehicle is a prestige type vehicle;

- the vehicle will not carry children/young persons aged under 18 unless accompanied by an adult; and
- the operator must, unless such a vehicle has been specifically requested, inform every hirer that such a vehicle will be supplied.

20 VEHICLES FOR 5 TO 8 PASSENGERS

Vehicles must have a current valid V5 certificate (log book) and MOT certificate which correctly show the same number of seats the vehicle is licensed for.

Vehicles must also have sufficient doors for passengers and/or emergency escape windows to satisfy the Council that the vehicle is safe and suitable.

Provision must be included to ensure that luggage is stored safely and securely and must not obstruct the use of exits.

In vehicles specifically adapted to carry disabled passengers, rear door access may be provided with a tail lift system, but a visible and audible warning device must be installed to alert the driver in the event of the rear door being opened or not being properly secured whilst the vehicle ignition is switched on.

Steps (whether fixed or separate) must be provided to ensure vehicles are safe to access and securely stored, if appropriate, when not in use. Steps should be kept maintained and be fit for purpose at all times.

21 ALTERATIONS

Any of the requirements in these conditions, except those imposed by legislation, may be varied at the discretion of the Council by officers acting under delegated powers.

22 INSURANCE

The vehicle shall not be used to carry passengers unless covered by a legally compliant insurance policy for that purpose. Private Hire Vehicles must not be insured for public hire.

If existing insurance is cancelled, expires or ceases to cover the relevant use the Council shall be informed immediately and the vehicle shall not be used to carry passengers.

23 CHANGES

Where there is a change of circumstances affecting the vehicle licence the Council must be notified in writing within 14 days of such change.

24 UNAUTHORISED USE

The vehicle shall not be used by any person who does not hold a current private hire or hackney carriage driver's licence (as appropriate) issued by the Council.

25 ACCIDENT REPORTING

Accidents must be reported as soon as is reasonably practicable and in any case within 72 hours.

Following any accident or damage to a vehicle:

- the Council may require that the vehicle is inspected by the Council's approved inspectors;

- an officer acting under delegated powers may suspend the use of a licensed vehicle until it is suitably repaired.
 - NB If the Council cannot be satisfied about the condition of the vehicle any suspension notice shall clearly state it is issued on that basis only and is not evidence as to the condition of the vehicle.

26 MISCELLANEOUS

The proprietor shall not knowingly cause or permit the vehicle to be used for any illegal or immoral purpose whatsoever.

27 MATERIAL USE OF HACKNEY CARRIAGES

Hackney Carriages shall be used:

- for plying for hire (Hackney Carriages) within the district or;
- carrying out pre-booked work predominantly within the district.

28 DAILY VEHICLE CHECKS

The proprietor, or a nominated representative, should check and record daily that the following are in legal working order:

- Lights
- Tyres/wheels
- Wipers
- Fluid levels
- Brakes
- Handbrake

29 WINDSCREENS

A vehicle should have no cracks on its front windscreen. If the windscreen is cracked during a booking then that booking may be completed if safe and legal to do so, but the windscreen must be replaced or repaired prior to commencing any further bookings.

30 VEHICLE LICENCE & INSURANCE DOCUMENTS

A copy of the vehicle licence and a current insurance certificate must be carried in the vehicle at all times.

31 MANUFACTURER RECALLS

It shall be the responsibility of the licence holder to ensure that any manufacturer recall of the vehicle is complied with as soon as reasonably practical.

32 OTHER REQUIREMENTS

- A copy of the vehicle licence shall be carried in the vehicle at all times and made available for inspection upon request by an authorised officer
- A copy of the current insurance certificate shall be carried in the vehicle at all times and be made available for inspection upon request by an authorised officer
- A licensed vehicle can only be driven by a person who holds the requisite licence issued by this authority.

DRAFT

Taxi Licensing Policy:

Private Hire Operators

September 2018

CONTROL SHEET FOR TAXI LICENSING POLICY: PRIVATE HIRE OPERATORS

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Taxi Licensing Policy: Private Hire Operators
Current status - i.e. first draft, version 2 or final version	First Draft
Policy author	Solicitor
Location of policy - i.e. L-drive, shared drive	
Member route for approval	Licensing Committee
Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council /Planning Committee	Council
Date policy approved	
Date policy due for review (maximum three years)	September 2021
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	At discretion of officers responsible for implementation.

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POLICY

1. Introduction

1.1 BACKGROUND

North East Derbyshire District Council has a responsibility for licensing hackney carriages and private hire vehicles, drivers and operators within the district of North East Derbyshire.

NB. Any reference in this Policy to notifying, informing, or otherwise contacting, the Council means contacting the Council's Licensing Section.

Unless otherwise stated, where the term "Taxi" is used in this Policy it is a generic term including hackney carriages and private hire vehicles (which retain their specific meanings set out in the Glossary of Terms below).

1.2 ROLE OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Hackney carriage and private hire have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

1.3 BEST PRACTICE GUIDANCE

The Department for Transport's Guidance considered views about what constitutes "Best or Good Practice" in terms of hackney carriage and private hire licensing. The Best Practice Guidance has, therefore, been used as an aid in shaping this policy.

1.4 CONSULTATION

There are a number of groups and organisations that have an interest in the provision of hackney carriage and private hire vehicle services, including the trade itself, residents and enforcers, all of whom have views and concerns that require consideration. In drawing up this policy, the Council has consulted with the following -

This list is not definitive -

- Authorities who border North East Derbyshire District Council
- Derbyshire County Council
- Other departments within North East Derbyshire District Council
- Members of North East Derbyshire District Council
- The hackney carriage and private hire trade including all licensed operators within the district
- Parish Councils
- Derbyshire Constabulary
- Derbyshire Police & Crime Commissioner
- Chief Fire Officer for Derbyshire
- Derbyshire County Council Trading Standards
- Derbyshire County Council Transport
- Social Services, Child Protection Office

1.5 POWERS AND DUTIES

This Statement of Licensing Policy has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on the Council the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

1.6 STATUS

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above.

Notwithstanding the existence of this policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from its policy, reasons will be given for so doing.

2. Scope

In setting out its policy North East Derbyshire District Council seeks to promote the following objectives -

- the protection of public health and safety;
- the establishment of a professional and respected hackney carriage and private hire trade;
- access to an efficient and effective public transport service; and
- the protection of the environment.

The aim of this policy is to regulate the hackney carriage and private hire trade in order to promote the above objectives.

3. Principles

The aim of licensing the hackney carriage and private hire vehicle trades is, primarily, to protect the public as well as to ensure that the public have reasonable access to hackney carriage and private hire services because of the local transport provision.

Its purpose is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.

It is important that the Council's powers are used to ensure that those who make provision for the booking of private hire vehicles in the district are suitable and safe, and that the powers are exercised in compliance with the European Convention on Human Rights.

4. Statement of Policy

4.1 PRIVATE HIRE OPERATORS

4.1.1 REQUIREMENTS AND OBLIGATIONS

Any person who operates a private hire service (except a hackney carriage proprietor who permits hackney carriages to be used for private hire) must hold a private hire operator's licence. The objective in licensing private hire operators is ensuring the safety of the public, who will be using operators' premises, vehicles and drivers arranged through them. "Operate" means to make provision for the invitation or acceptance of bookings for private hire vehicles in the course of business.

Before allocating a booked job, a private hire operator must ensure that the vehicle and driver are suitably licensed and fit and proper for use.

4.1.2 CRIMINAL RECORD CHECKS & SAFEGUARDING

Before an application for a private hire vehicle operator's licence will be considered, the applicant must provide a current (less than three months old) Disclosure & Barring Scheme basic criminal disclosure or, in the case of an overseas applicant, sufficient other evidence to satisfy the Council of their suitability. The DBS application must be carried out through the Council and not by another organisation.

Where Operators have supplied an enhanced DBS Disclosure as part of a driver's licence application, they will not be required to provide a separate basic disclosure under this section if the enhanced check is still current.

Where the applicant is a company or partnership, every director, partner or person with day to day control of that company or partnership (where appropriate) will be required to submit the information required above.

All applicants will also be required to sign up to the DBS Update Service and to authorise the Council to carry out status checks using the Service. Licence holders will then be required to maintain the Service at all times while licensed. If the update service lapses they will be required to apply for a new DBS Disclosure and renew their Update Service subscription. Failure to do so could result in their licence being suspended.

If at any time the Council considers it appropriate to require a further DBS disclosure be provided the relevant individual must provide one, at their own expense, as soon as reasonably practical.

Before a licence is granted or renewed all Operators will be required to undertake mandatory safeguarding training and assessment.

4.1.3 CONDITIONS

The conditions set out in Appendix A are considered reasonably necessary and will apply to all operators licences.

4.1.4 LICENCE DURATION

A successful applicant will normally be granted a private hire operator's licence for 5 years. However, if Operators wish to be granted a licence for a shorter period, or there are other grounds to consider a shorter period, the Council will consider this in exceptional circumstances.

It is the licence holder's responsibility to ensure that their operator's licence is renewed appropriately before expiry.

Evidence of a licence holder's continuing fitness to hold a licence must be provided when requested by an authorised officer of the Council.

4.1.5 ADDRESS FROM WHICH AN OPERATOR MAY OPERATE

The licence will specify the address from which the operator may operate. The operator must notify the Council in writing of any change of address (whether this is a home address or the address from which they operate) during the period of the licence, prior to changing the address. A business cannot legally operate from an address not specified on its licence.

4.1.6 BASES OUTSIDE THE COUNCIL'S AREA

The Council will not grant an licence for an operator with a base that is outside the boundary of the district. This is considered both a legal requirement and a means to ensure that proper regulation and enforcement measures may be taken.

The Council will cease to renew the licences of operators who are currently licensed for bases outside the Council's area.

4.1.7 PRIVATE HIRE FARES

Private hire fares may be determined by the operator that takes the booking. The operator may make their own agreement with the hirer as to the fare for a particular journey.

A private hire vehicle may have a calibrated meter, in which case a table of the Operator's applicable fares (which match those charged by the meter) must be displayed.

4.1.8 SUB-CONTRACTING

Where an Operator engages in sub-contracting of bookings, or holds more than one Operator's licence (whether with one or more authorities) they will be required to maintain clear records of which licence all bookings are recorded and carried out under.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion, the appropriate officers as determined by the Council's delegations scheme.

This and other policies set out the principles that govern the Council's licensing of hackney carriage and private hire vehicle drivers, operators and vehicles. Minor modifications to conditions, specifications or procedures may from time to time be modified by officers acting under delegated powers, except where not appropriate to do so.

6. Glossary of terms

Throughout this document -

- "The Council" means North East Derbyshire District Council
- "Licensed Vehicle" means both a Hackney Carriage and Private Hire Vehicle

- "Hackney Carriage" means a vehicle of any form or construction, licensed for standing or plying for hire in any street
- "Hackney Carriage Driver" means a person licensed to act as driver of any hackney carriage
- "Private Hire Vehicle" means a licensed vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
- "Private Hire Driver" means a person licensed to act as driver of any private hire vehicle
- "Private Hire Operator" means a person licensed to make provision for the invitation or acceptance of bookings for a private hire vehicle

7. Appendices

Appendix A follows.

APPENDIX A

PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS

In addition to the conditions set out below, any requirements set out in Part 4 of this Policy will form part of the Licence conditions.

1 STANDARDS OF SERVICE

The operator shall:

- Provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- Ensure that employed staff act in a civil and orderly manner at all times.
- Ensure, when a vehicle has been hired, that it arrives punctually at the appointed place, unless delayed by unavoidable circumstances beyond their control. If delays are lengthy, the driver/operator should contact the hirer to inform them.
- Ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated.
- Ensure that any waiting area provided has adequate seating facilities.
- Ensure compliance with legislation regarding the length of working hours.
- Take all reasonable steps to ensure drivers are fit and suitable.
- Take all reasonable steps to ensure vehicles are safe and roadworthy.

2 RECORDS

Records shall be kept:

- In a non-erasable form in a suitable log or book or in a computerised record system designed to prevent records being tampered with following the taking of a booking
- For at least 12 months
- Available for inspection, on request, by an authorised officer of the Council or a Police Officer.
- In accordance with the relevant data protection law

The records to be kept include the information set out below and any other information as authorised officers may from time to time direct operators to keep.

2.1 BOOKING RECORDS

Prior to each journey, the operator shall enter the following details of every booking of a private hire vehicle accepted:

- the date and time of the booking
- the name of the hirer
- the name of the person taking the booking
- the time of pick up
- the address of pick up
- the destination (unless automatically recorded by GPS)
- the time at which a driver was allocated to the booking
- the plate number (or other identification) of the vehicle allocated
- the fare quoted
- any sub-contracting arrangements

2.2 VEHICLES

The operator shall keep records of all private hire vehicles operated by him, including:

- A copy of the vehicle licence
- A copy of a current insurance certificate
- Whether the vehicle is wheelchair accessible
- The seat-to-wheelchair configuration of wheelchair accessible vehicles

2.3 DRIVERS

The operator shall keep records of all drivers of private hire vehicles operated by him/her, including:

- A copy of the HC/PHV driver's licence
 - This should be kept for at least 12 months after either expiry of the licence or the driver leaves the operators service
- Details identifying the drivers of each vehicle
- When any driver's service begins or ends
- The current address of any driver
- Details of any illness, disability or health condition which may affect the driver's ability to safely carry out his/her duties
- The expiry dates of drivers' badges
- The hours worked by each driver

3 COMPLAINTS

The operator shall keep a written record of all complaints received and what action, if any, has been taken or proposed as a result.

The operator shall inform the Council immediately of any complaints deemed to be serious, including (but not limited to) safeguarding, discrimination, dishonesty, violence, public safety, alcohol, drugs, indecency, medical conditions etc.

4 DISCLOSURE OF CONVICTIONS

The operator shall, within 7 days, notify the Council in writing of any conviction, caution or fixed penalty imposed on him. If the operator is a company or partnership, this requirement also applies if any of the directors or partners receive a conviction, caution or fixed penalty.

5 INSURANCE

The operator shall ensure:

- That every vehicle operated by him has a suitable motor insurance policy.
- That he holds sufficient and suitable insurance covering any loss, damage or personal injury that may occur. Details of such insurance must be made available to authorised officers of the Council on demand.

6 DISPLAY OF TERMS AND CONDITIONS

The operator shall, at all times, keep a copy of these conditions at any premises used by him/her for a private hire business and shall make the same available for inspection by fare paying passengers.

7 INSPECTION OF LICENCE

The Operator's Licence (or a certified copy) shall be displayed at the licensed address and be made available for inspection on request by any authorised officer of the Council or any Police Officer.

8 NUISANCE

An operator shall not allow any premises used in connection with their private hire business to cause a nuisance to nearby residents or businesses, including (but not limited to):

- Undertaking servicing or repairs of vehicles which cause nuisance, disturbance or distress; and
- Allowing any entertainment devices to cause disturbance.

9 SAFEGUARDING

An operator shall have a documented reporting procedure in place to deal with all safeguarding concerns and a record shall be kept of the following:

- The date, time and location that the concern was reported;
- The date, time and location at which the concern was first observed;
- Details of the reason for the concern;
- Details or description of the person/s who raised the concern;
- Details or description of the person/s who are believed to be the subject of the concern;
- Details of any bookings which may be related to the concern;
- Any action taken; and
- Details of any referrals made to other agencies, which should include the Police.

Operators must undergo such safeguarding training as deemed necessary by the Council.

Operators shall ensure that every driver is aware of their documented safeguarding procedure to enable compliance with that procedure.

10 NOTIFICATION OF CONCERNS

The Operator shall notify the Council if they become aware of anything that may call into question the ability of the driver or vehicle to undertake licensed work e.g. medical conditions, convictions, vehicle defects etc.

DRAFT

Taxi Licensing Policy:

Enforcement

September 2018

CONTROL SHEET FOR TAXI LICENSING POLICY: ENFORCEMENT

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Taxi Licensing Policy: Enforcement
Current status - i.e. first draft, version 2 or final version	First Draft
Policy author	Solicitor
Location of policy - i.e. L-drive, shared drive	
Member route for approval	Licensing Committee
Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council /Planning Committee	Council
Date policy approved	
Date policy due for review (maximum three years)	September 2021
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	At discretion of officers responsible for implementation.

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POLICY

1. Introduction

1.1 BACKGROUND

North East Derbyshire District Council has a responsibility for licensing hackney carriages and private hire vehicles, drivers and operators within the district of North East Derbyshire.

NB. Any reference in this Policy to notifying, informing or otherwise contacting the Council means contacting the Council's Licensing Section.

Unless otherwise stated, where the term "Taxi" is used in this Policy it is a generic term including hackney carriages and private hire vehicles (which retain their specific meanings set out in the Glossary of Terms below).

1.2 ROLE OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

1.3 BEST PRACTICE GUIDANCE

The Department for Transport's Guidance considered views about what constitutes "Best or Good Practice" in terms of hackney carriage and private hire licensing. The Best Practice Guidance has, therefore, been used as an aid in shaping this policy. Regard has also been had to best practice learned from other local authorities.

1.4 CONSULTATION

There are a number of groups and organisations that have an interest in the provision of hackney carriage and private hire vehicle services, including the trade itself, residents and enforcers, all of whom have views and concerns that require consideration. In drawing up this policy, the Council has consulted with the following -

This list is not definitive -

- Authorities who border North East Derbyshire District Council
- Derbyshire County Council
- Other departments within North East Derbyshire District Council
- Members of North East Derbyshire District Council
- The hackney carriage and private hire trade including all licensed operators within the district
- Parish Councils
- Derbyshire Constabulary
- Derbyshire Police & Crime Commissioner
- Chief Fire Officer for Derbyshire
- Derbyshire County Council Trading Standards
- Derbyshire County Council Transport
- Child Protection Services (Safeguarding)

1.5 POWERS AND DUTIES

This Policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976 and other legislation under which the Council is the licensing authority for hackney carriage and private hire vehicles.

1.6 STATUS

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above.

Notwithstanding the existence of this policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from its policy, reasons will be given for so doing.

2. Scope

In setting out its policy North East Derbyshire District Council seeks to promote the following objectives -

- the protection of public health and safety;
- the establishment of a professional and respected hackney carriage and private hire trade;
- access to an efficient and effective public transport service; and
- the protection of the environment.

The aim of this policy is to regulate hackney carriage and private hire vehicles in order to promote the above objectives.

3. Principles

The aim of licensing the hackney carriage and private hire vehicle trades is, primarily, to protect the public as well as to ensure that the public have reasonable access to hackney carriage and private hire services because of the local transport provision.

It is important that the Council's powers are used to ensure that the conduct of licence holders is monitored and, where their conduct falls short of what is expected, appropriate action is taken in a fair and proportionate manner to protect the public.

4. Statement of Policy

4.1 DISCIPLINARY AND ENFORCEMENT MEASURES

The Council has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to high standards. The Council will endeavour to do this in a consistent and transparent manner. These standards are defined by legislation, licence conditions, codes of practice or adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken by the Council, Officers and Members in their application.

It is the policy of the Council to ensure that drivers, operators and vehicle proprietors are licensed correctly and carry out their trade in accordance with the relevant legislation and the conditions attached to the licences.

All enforcement action will be proportionate to the seriousness of the breach and the possible consequences arising out of it.

Specific advice on the issue of licences and enforcement actions is contained elsewhere in this Policy which sets out the general principles to be followed in taking enforcement decisions.

Authorised officers and Members must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.

4.1.1 ENFORCEMENT

To encourage responsible hackney carriage/private hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, the Council will only intervene where it is necessary and proportionate to do so.

The Council will liaise with other bodies in carrying out its enforcement procedures, including officers of other Local Authorities and Police bodies. Achieving and maintaining a consistency of approach to making all enforcement decisions is vital. Enforcement will be carried out in accordance with this policy and the Enforcement Policy of the Joint Environmental Health Service.

Any departure from policy will be fully considered and endorsed by an officer acting under delegated powers (unless it is considered that there is significant risk to the public in delaying the decision).

4.1.2 DISCIPLINARY HEARINGS

Disciplinary matters which are considered serious enough to warrant the potential revocation or suspension of a licence will be referred to the Council's Licensing Sub-sub-committee. The Sub-sub-committee will consider the fitness of an individual to hold a licence, and take the action appropriate to the circumstances.

However, where it is deemed necessary for swift action to be taken for public safety, officers acting under delegated powers may suspend licences using delegated powers. In some cases this can be with immediate effect.

4.1.3 RANGE OF POWERS

The Council may take any of the steps below where an offence or breach of the conditions has been committed:

- suspend the licence;
- revoke the licence;
- refuse to renew a licence;
- impose additional licence conditions;
- require the production of driving licences or other specified documentation to the Licensing Team;
- require the licence holder to retake one, some or all of the required tests
- present a vehicle for testing;
- issue a formal warning;
- recommend prosecution action; or
- take no further action

This list is not exhaustive.

4.1.4 ENFORCEMENT OPTIONS

Licence application and enforcement decision must always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision the following must be considered:

- seriousness of any offences;
- driver or operator's past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- blatant disregard of law or Council instruction
- the promotion of public safety; and
- any other relevant factors.

4.1.5 INFORMAL ACTION

Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.

Informal enforcement action may be appropriate where:

- the act or omission is not serious enough to warrant more formal action;
- it can be reasonably expected that informal action will achieve compliance; or
- confidence in the operator's management is high;

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more appropriate than a formal approach.

4.1.6 APPEARANCE BEFORE THE LICENSING SUB-SUB-COMMITTEE

An individual or company may be invited before the Licensing Sub-sub-committee to answer allegations of breaches of relevant legislation or conditions attached to licences.

The Sub-sub-committee may decide to take one or more of the following measures:

- no action;
- a written warning;
- require the licence holder to retake one, some or all of the required tests
- present the vehicle for testing;
- require the production of driving licences or other specified documentation to the Licensing Team;
- propose further conditions on the licence
- suspend a licence;
- revoke a licence;
- recommend prosecution action.

This list is not exhaustive.

4.1.7 SUSPENSION NOTICES

An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle (or the faresmeter affixed to such vehicle), requiring the licensee to comply with any requirements contained in the notice. This notice must only be served having had due regard

to the condition of the vehicle, any reasonable grounds to suspect the accuracy of the faresmeter, or any other reasonable cause.

An authorised officer may inspect a vehicle and, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he/she is satisfied with the condition of the hackney carriage or private hire vehicle. This action will only be taken when he/she has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passenger and/or other road users.

4.1.8 APPEALS

Appeals against decisions of the Licensing Sub-sub-committee or an authorised officer may be made to the Magistrates' Court, with the exception of decisions made regarding hackney carriage vehicle licences which are made to the Crown Court.

Any notifications of enforcement actions will include written information on how to appeal. This will explain how, where and within what period an appeal may be brought and on what grounds and may confirm that the enforcement action is suspended pending the outcome of the appeal.

4.1.9 PROSECUTION

The decision to prosecute is a very significant one. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Council are not followed and/or the public is put at serious risk. It is important that the decisions to prosecute are made using consistent reasons.

Each case will be considered on its merits, but the circumstances which are likely to warrant prosecution may be characterised by one or more of the following:

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers, other road users or pedestrians;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent;
- where a particular contravention has caused serious public alarm.

When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.

Before referring a matter for prosecution, the Solicitor to the Council must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by identifiable person(s) or company. There must be a realistic prospect of conviction; a bare prima facie case is not enough.

In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, there must be a positive decision, based on the relevant criteria that it is in the public interest to prosecute.

The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which will be considered when assessing both evidence and the public interest.

When a decision is being taken on whether to prosecute, the factors to be considered may include -

- the seriousness of the alleged offence;
- the risk of harm to the public;
- identifiable victims;
- failure to comply with a statutory notice served for a significant breach of legislation;
- disregard of safety for financial reward;
- dishonesty;
- the previous history of the party(ies) concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings or Council instructions;
- the ability of any important witnesses and their willingness to co-operate;
- the willingness of the party to prevent a recurrence of the problem;
- the probable public benefit of a prosecution and the importance of the case eg whether it might establish a legal precedent. (As indicated above, advice on the public interest is contained in the Code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution);
- whether other action, such as issuing a caution in accordance with the Home Office Circular 16/2008 would be more appropriate or effective. See Section 8 of this appendix for advice in respect of simple cautions.

Once a decision that prosecution is the most appropriate course of action has been taken, the matter will be referred, without delay, to the Solicitor to the Council.

4.1.10 SIMPLE CAUTIONS

A simple caution (previously known as a formal caution) may be used as an alternative to a prosecution in certain circumstances.

Simple cautions are a non-statutory disposal and the Council may exercise discretion in deciding to use them. Decisions to issue a caution will depend whether it is appropriate to the offence and the offender and whether it is likely to be effective in the circumstances.

When considering the issuing of a caution officers will have regard to any statutory or Government guidance.

The following conditions should be fulfilled before a caution is administered:

- There must be sufficient evidence of the suspected offender's guilt to give a realistic prospect of conviction if a prosecution was brought.
- The suspected offender must have made a clear and reliable admission of the offence.
- It must be in the public interest to use a simple caution as the appropriate means of disposal. .

Where a person declines the offer of a caution, it will be necessary to consider taking alternative enforcement action.

A caution may be used as evidence in future prosecutions.

4.1.11 TRANSPARENCY

Following the completion of an investigation into a complaint or any enforcement activity, the licence holder will be informed of the action intended to be taken.

Any written documentation issued or sent will -

- contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
- indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen; and
- clearly indicate any recommendations of good practice under an appropriate heading, to show that they are not a legal requirement.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion of, authorised officers acting under delegated powers.

This and other policies set out the principles that govern the Council's licensing of hackney carriage and private hire vehicle drivers, operators and vehicles. Minor modifications to conditions, specifications or procedures may from time to time be modified by officers acting under delegated powers, except where not appropriate to do so.

6. Glossary of terms

Throughout this document -

- "The Council" means North East Derbyshire District Council
- "Licensed Vehicle" means both a Hackney Carriage and Private Hire Vehicle
- "Hackney Carriage" means a vehicle of any form or construction, licensed for standing or plying for hire in any street
- "Hackney Carriage Driver" means a person licensed to act as driver of any hackney carriage
- "Private Hire Vehicle" means a licensed vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
- "Private Hire Driver" means a person licensed to act as driver of any private hire vehicle
- "Private Hire Operator" means a person licensed to make provision for the invitation or acceptance of bookings for a private hire vehicle

7. Appendices

Appendix A and B follow.

APPENDIX A

POLICY GUIDELINES FOR DEALING WITH OFFENCES

COMMITTED DURING THE TERM OF A LICENCE

1 GENERAL POLICY

Although each case will be determined on its own merits, listed below are some general principles relating to the commission of offences by licence holders.

The holders of both hackney carriage and private hire vehicle driver's licences must report all criminal convictions and driving convictions, cautions or acceptance of fixed penalty notices to the Council within two working days. In addition, breaches of the relevant legislation or conditions attached to driver, operator and vehicle licences may come to light following complaints, enforcement action and/or investigations

2 MATTERS NORMALLY TO BE DEALT WITH BY AUTHORISED OFFICERS UNDER DELEGATED POWERS

An officer acting under delegated powers may deal directly with less serious offences without referring the matter to the Licensing Sub-sub-committee. They may choose to take no action or may issue warnings as to future conduct.

Officers will refer to Licensing Sub-sub-committee any matter which they believe casts doubt on an individual's fitness and propriety.

3 CONSIDERATION OF CONVICTIONS

The Council's response to an individual receiving a conviction will be in line with the following principles:

3.1 Serious offences involving violence

Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. A licence will normally be revoked if the licence holder receives a conviction for an offence that involved the loss of life.

Unless there are exceptional circumstances a licence will be revoked where the applicant is convicted for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Kidnapping or abduction
- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm

- Riot
- Assault Police
- Common assault which is racially aggravated
- Violent disorder
- Threats to kill
- Resisting arrest
- Hate crime against a person
- Any racially-aggravated offences
- Hate crime against property
- Any similar offences (including attempted or conspiracy to commit) or offences which replace the above.

3.2 Other violent offences

Depending on the facts of the case revocation or a lengthy suspension may be appropriate in cases where a licence holder is convicted of the offences including:

- Common assault/Battery
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Harassment
- Offences involving anti-social behaviour
- Any similar offences (including attempted or conspiracy to commit) or any offences which replace the above

3.3 Miscellaneous guidance on violent offences

A licence will normally be revoked if a licence holder has more than one conviction in the last 10 years for offences of a violent nature.

In the event of a licence remains in force, despite convictions against the licence holder for violence, a strict warning both verbally and in writing should be administered.

3.4 Possession of a weapon

If an applicant has been convicted of possession of a weapon or any other weapon related offence, depending on the circumstances of the offence, revocation or a lengthy suspension may be appropriate.

3.5 Sexual and indecency offences

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. All sexual offences should be considered as serious. Licence holders convicted of sexual offences will normally have their licence revoked.

Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults

- Grooming, Trafficking or other Sexual Exploitation related offences (adults and/or children)
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

3.6 Indecency Offences

Depending on the facts of the case revocation or a lengthy suspension may be appropriate in cases where a licence holder is convicted of the offences including:

- Making indecent telephone calls
- Importuning
- Indecent exposure
- Soliciting (kerb crawling)
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

A licence will normally be revoked if a licence holder has more than one conviction in the last 10 years for offences of an indecency offence.

3.7 In addition to the above the licensing authority will revoke the licence of anyone who is registered on the Sex Offenders Register or any other similar register.

3.8 Dishonesty

A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

Unless there are exceptional circumstances a licence will normally be revoked where the applicant is convicted for an offence such as:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

Revocation or a lengthy suspension may be appropriate where licence holders are found to have intentionally misled the council, or lied as part of the application process.

3.9 Alcohol and Drugs

An isolated conviction for drunkenness may not result in revocation or suspension. In some cases a warning may be appropriate. However, a number of convictions for drunkenness, including drunk and disorderly or drunk and incapable, could indicate a medical problem necessitating critical examination and revocation of licence.

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

A licence will normally be revoked where the licence holder is convicted of one or more offences related to the supply of drugs.

A revocation or lengthy suspension may be appropriate where the licence holder has received more than one conviction for offences related to the possession of drugs.

If there is evidence of persistent drug use, misuse or dependency, a specialist examination (in accordance with the DVLA group two medical standards) may be required before a suspended licence is reinstated.

3.10 Driving offences involving the loss of life

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. A licence will normally be revoked immediately if the applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers.
- Any similar offences (including attempted or conspiracy to commit) or any offences which replace the above.

3.11 Driving offences involving alcohol and/or drugs

A serious view will be taken of convictions of driving, or attempting to drive, or being in charge of a vehicle while under the influence of drink or drugs. Where a disqualification has occurred as a result of a drug or drink-driving offence a licence will be revoked.

Where no disqualification has occurred it may still be appropriate for a licence to be revoked or subject to a lengthy suspension depending on the circumstances.

3.12 Major Traffic Offences

Subject to the above paragraphs an isolated conviction for a major traffic offence, without disqualification, such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. However, depending on the circumstances of the case revocation or suspension may still be appropriate.

Where an existing licence holder is disqualified from driving as a result of a conviction for a major traffic offence, the licence will normally be revoked.

Where an existing licence holder is convicted of a major traffic offence, but the licence-holder is not disqualified from driving, the licence should normally be revoked or not renewed and

any subsequent application for a new licence will be determined in accordance with the guidance above.

3.13 Minor Traffic Offences

Isolated convictions for minor traffic offences should not prevent a person from holding a licence. A warning may be more appropriate than revocation or suspension. However, multiple minor traffic offences will normally be taken as reflecting seriously on the applicant's driving standard and more serious sanctions may be considered.

Where an existing licence holder is disqualified from driving the licence will normally be revoked.

3.14 Totting Up Disqualifications

Where a number of traffic offences has resulted in a driver receiving 12 penalty points or more on his/her licence the driver will be disqualified from driving unless the Court is satisfied that exceptional hardship would be suffered by an individual if disqualified. This is known as a "totting-up" disqualification.

Where an existing licence holder is disqualified from driving as a result of a totting up, the licence will normally be revoked.

3.15 Hybrid traffic offences

Offences of the type listed in Appendix B under this heading will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

3.16 Plying for Hire

Any licence holder found to have committed this offence will be judged on the circumstances of the case, and at the least suspension of the licence should be considered. Where a driver is convicted on more than one occasion the licence may be revoked or not renewed.

Consideration will be taken if the offence of plying for hire was accompanied by the fact that at the time there was no insurance cover in place for the vehicle. It will be up to the licence holder to prove that there was valid insurance in place at the time of the offence.

3.17 Insurance Offences

A serious view will be taken of convictions of driving a vehicle without insurance. An isolated incident will not necessarily result in a licence being revoked, however a strict warning should be given as to future behaviour.

More than one of these offences would normally result in a licence being revoked

An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his operator's licence revoked immediately and prevented from holding a licence for 3 years.

3.18 DISQUALIFICATION FROM DRIVING

In all cases above where a licence is revoked following disqualification, an application for a new licence will only be accepted once the DVLA licence is restored and this will be treated in accordance with the Policy for new applications.

4 OTHER OFFENCES AND CONDUCT

4.1 FAILURE TO REPORT A CONVICTION

The failure to report a conviction, caution or fixed penalty notice within seven working days will normally be dealt with by issuing a written warning in addition to any further actions that may be warranted by the nature of the offence.

4.2 FAILURE TO REPORT AN ACCIDENT

The failure to report an accident to the Council will normally be dealt with, in the first instance, by issuing a written warning.

4.3 DEFECTIVE VEHICLES

Where a defect is identified on a licensed vehicle that could affect safety or suitability to carry passengers, authorised officers of the Council will issue a suspension notice with immediate effect. This will stop the vehicle being used as a hackney carriage or private hire vehicle, as appropriate, until the defect is remedied and the repair certified by the Council's appointed garage to ensure the vehicle is safe to carry passengers in comfort.

If a minor defect is identified, an officer acting under delegated powers may instead issue a notice giving seven or more days to repair the defect.

4.4 REFUSAL TO CARRY A PASSENGER IN A HACKNEY CARRIAGE

The driver will be invited to state the reasons for his actions. If an officer is satisfied that the driver had a justifiable reason, then no action will be taken. If there appears to be no acceptable justification for the refusal, the matter will normally be dealt with on the first occasion by the issue of a written warning. Subsequent offences would, however, result in immediate referral to the Licensing Sub-sub-committee with a view to suspension or revocation.

4.5 UNAUTHORISED RANKING

This will normally result in the issue of a written warning. Subsequent contraventions will result in referral to the Licensing Sub-sub-committee with a view to suspension or revocation.

4.6 EXCEEDING THE ALLOWED NUMBER OF PASSENGERS

This will normally result in, at least, the issue of a written warning. Subsequent contraventions will result in referral to the Licensing Sub-sub-committee with a view to suspension or revocation.

4.6 UNAUTHORISED OR ILLEGAL ADVERTISING ON VEHICLE

This will normally result in the issue of a written warning. Subsequent contraventions will result in referral to the Licensing Sub-sub-committee with a view to suspension. The advertising must be immediately removed.

4.7 FAILURE TO DISPLAY PLATES OR BADGES

This will result in, at least, a written warning. Subsequent contraventions will result in referral to the Licensing Sub-sub-committee with a view to suspension or revocation.

4.8 CONFIRMED COMPLAINTS OF RUDE OR AGGRESSIVE BEHAVIOUR

In less serious cases, a warning as to future conduct will be given. However, if the nature or level of aggression leads to concerns about public safety, the matter will be brought before the Licensing Sub-sub-committee with a view to suspension or revocation.

4.9 PRESENCE IN THE VEHICLE OF UNAUTHORISED TELECOMMUNICATION APPARATUS

This will normally result in the issue of a written warning. Subsequent contraventions will result in referral to the Licensing Sub-sub-committee with a view to suspension or revocation.

4.10 FAILURE TO COMPLY WITH A LAWFUL REQUIREMENT OR INSTRUCTION FROM AN AUTHORISED OFFICER OF THE COUNCIL OR A POLICE CONSTABLE

The holders of licences are legally obliged, under the relevant legislation, to comply with a number of requirements or instructions given to them by an authorised officer of the Council or a Police Constable.

Where the licensee has failed to comply with such an instruction it will normally merit a written warning on the first occasion. Where, however, they continue to fail to comply the matter will be referred to the Licensing Sub-sub-committee with a view to suspension or revocation.

This section applies where a licence holder fails to provide information, including medical information, when required to do so by an authorised officer.

However, where a driver or proprietor has failed to return a licence or plates following a revocation of a licence, the only sanction available is to institute a prosecution.

4.11 OBSTRUCTING AN AUTHORISED OFFICER OF THE COUNCIL OR A POLICE CONSTABLE IN THE EXECUTION OF HIS DUTY

If the holder of a licence has obstructed an authorised officer of the Council or a Police Constable carrying out their duties it will be considered a very serious matter and will normally result in a prosecution, if the evidence supports it.

4.12 FAILURE TO UPDATE A CHANGE IN CIRCUMSTANCES

If a licence holder fails to inform the Council of any relevant change in circumstances they may be liable to a written warning on the first occasion. Further failures may be referred to the Licensing Sub-sub-committee with a view to suspension or revocation.

5 PROSECUTIONS

Where appropriate the Council may institute proceedings to prosecute offenders without first referring the matter to the Licensing Sub-sub-committee. In all such cases officers will subsequently report such action to the Licensing Sub-sub-committee.

6 MATTERS TO BE DEALT WITH BY THE LICENSING SUB-SUB-COMMITTEE

The Licensing Sub-sub-committee will be asked to deal with the more serious offences and/or to determine the most appropriate action where further offences occur following a warning or other informal action.

The Licensing Sub-sub-committee has the same options available as an officer acting under delegated powers. The Sub-sub-committee will decide the most appropriate course of action based on the merits of each particular case in line with the guidance in Section 3 of this

Appendix. The intention where licences are suspended or revoked is to ensure public protection.

7 OTHER CONTRAVENTIONS

Not all cases will be covered by specific guidance in this Policy.

In such cases any offence which, in the opinion of a Licensing Officer, is best dealt with by the Sub-sub-committee may be brought before them. This may include cases where requirements have been persistently breached and where warnings have not been heeded.

All such matters will be decided on the facts of the case. Any action taken must be proportionate to the seriousness of the offence and the overriding requirement to ensure public safety.

8 IMMEDIATE SUSPENSION OR REVOCATION OF DRIVER'S LICENCES

If it appears that it is in the interests of public safety an officer acting under delegated powers, or the Licensing Sub-sub-committee, may require the suspension or revocation of a driver's licence to have immediate effect.

Notice will be given to the driver including a statement that the suspension or revocation is immediate and an explanation as to why. The suspension or revocation takes effect when the notice is served upon the driver.

APPENDIX B

CATEGORIES OF MOTORING OFFENCES

1 MAJOR TRAFFIC OFFENCES

AC10 Failing to stop after an accident
AC20 Failing to give particulars or to report an accident within 24 hours
AC30 Undefined accident offences
BA10 Driving while disqualified by order of court
BA30 Attempting to drive while disqualified by order of court
BA40 Causing death by driving while disqualified
BA60 Causing serious injury by driving while disqualified
CD10 Driving without due care and attention
CD20 Driving without reasonable consideration for other road users
CD30 Driving without due care and attention or without reasonable consideration for other road users
CD40 Causing death through careless driving when unfit through drink *
CD50 Causing death by careless driving when unfit through drugs *
CD60 Causing death by careless driving with alcohol level above the limit *
CD70 Causing death by careless driving then failing to supply a specimen for analysis *
CD80 Causing death by careless or inconsiderate driving *
CD90 Causing Death by driving: unlicensed, disqualified or uninsured drivers *
DD40 Dangerous driving
DD60 Manslaughter or culpable homicide while driving a vehicle *
DD80 Causing death by dangerous driving *
DD90 Furious driving
DG60 Causing death by careless driving with drug level above the limit*

The above offences marked * are dealt with in the section entitled driving offences involving the loss of life

DR10 Driving or attempting to drive with alcohol level above limit +
DR20 Driving or attempting to drive while unfit through drink +
DR31 Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
DR40 In charge of a vehicle while alcohol level above limit +
DR50 In charge of a vehicle while unfit through drink +
DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR61 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive +
DR70 Failing to provide specimen for breath test +
DR80 Driving or attempting to drive when unfit through drugs +
DR90 In charge of a vehicle when unfit through drugs +
DG10 Driving or attempting to drive with drug level above the specified limit
DG40 In charge of a vehicle while drug level above the specified limit
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The above offences marked + are dealt with in the section entitled alcohol and drugs

IN10 Using a vehicle uninsured against third party risks
LC20 Driving otherwise than in accordance with a licence
LC30 Driving after making a false declaration about fitness when applying for a licence

LC40 Driving a vehicle having failed to notify a disability
LC50 Driving after a licence has been revoked or refused on medical grounds
MS50 Motor racing on the highway
UT50 Aggravated taking of a vehicle
TT99 Signifies a disqualification under the totting up procedure 12 or more points within three years

2. MINOR TRAFFIC OFFENCES

CU10 Using vehicle with defective brakes
CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30 Using a vehicle with defective tyre(s)
CU40 Using a vehicle with defective steering
CU50 Causing or likely to cause danger by reason of load or passengers
CU80 Using a mobile phone while driving a vehicle
MS10 Leaving a vehicle in a dangerous position
MS20 Unlawful pillion riding
MS30 Play street Offences
MS40 Driving with uncorrected defective eyesight or refusing to submit to a test
MS60 Offences not covered by other codes
MS70 Driving with uncorrected defective eyesight
MS80 Refusing to submit to an eyesight test
MS90 Failure to give information as to the identity of driver etc.
MW10 Contravention of Special Road Regulations (excluding speed limits)
PC10 Undefined contravention of Pedestrian Crossing Regulations
PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle
SPI0 Exceeding goods vehicle speed limit
SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30 Exceeding statutory speed limit on a public road
SP40 Exceeding passenger vehicle speed limit
SP50 Exceeding speed limit on a motorway
SP60 Undefined speed limit offence
TS10 Failing to comply with traffic light signals
TS20 Failing to comply with double white lines
TS30 Failing to comply with a "Stop" sign
TS40 Failing to comply with direction of a constable/ warden
TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60 Failing to comply with school crossing patrol sign
TS70 Undefined failure to comply with a traffic direction sign

3. HYBRID TRAFFIC OFFENCES

CU10 Using vehicle with defective brakes
CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30 Using a vehicle with defective tyre(s)
CU40 Using a vehicle with defective steering
CU50 Causing or likely to cause danger by reason of load or passengers
SP10 Exceeding goods vehicle speed limit
SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30 Exceeding statutory speed limit on a public road
SP40 Exceeding passenger vehicle speed limit
SP50 Exceeding speed limit on a motorway
SP60 Undefined speed limit offence
Other non endorsable motoring offences i.e. no MOT

NOTE:

All offences in this Appendix may also include the following codes

Aiding, abetting, counselling or procuring:

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting:

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting:

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

DRAFT

DRAFT

Taxi Licensing Policy:

Equality Act 2010 Licensed Driver
Medical Exemption Policy

September 2018



We speak your language

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Mówimy Twoim językiem

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CONTROL SHEET FOR EQUALITY ACT 2010 LICENSED DRIVER

MEDICAL EXEMPTION POLICY

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Equality Act 2010 Licensed Driver Medical exemption policy
Current status – i.e. first draft, version 2 or final version	Version 1.2
Policy author (post title only)	Environmental Health Advisor
Location of policy (whilst in development) – i.e. L-drive, shared drive	S://Planning & EH/ EH/Res /Staff/Licensing/Policy (Drafts)
Relevant Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council	Licensing Committee/Full Council
Date policy approved	
Date policy due for review (maximum three years)	
Date policy forwarded to Improvement (to include on Intranet and Internet if applicable to the public)	

EQUALITY ACT 2010 LICENSED DRIVER MEDICAL EXEMPTION POLICY

1. INTRODUCTION

1.1 **Background**

North East Derbyshire District Council has a responsibility for licensing hackney carriages and private hire vehicles, drivers and operators within the district of North East Derbyshire.

NB. Any reference in this Policy to notifying, informing, or otherwise contacting, the Council means contacting the Council's Licensing Team.

1.2 **Role of Hackney Carriage and Private Hire Vehicles**

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties and accessibility needs.

1.3 **Best Practice Guidance**

The Department for Transport has produced statutory guidance on access for wheelchair users to Taxi and Private Hire Vehicles. The guidance has, therefore, been used as an aid in shaping this policy.

1.4 **Consultation**

There are a number of groups and organisations that have an interest in the provision of hackney carriage and private hire vehicle services, including the trade itself, residents and enforcers, all of whom have views and concerns that require consideration. In drawing up this policy, the Council has consulted with the following (this list is not definitive): -

- Authorities who border North East Derbyshire District Council
- Derbyshire County Council
- Other departments within North East Derbyshire District Council
- Members of North East Derbyshire District Council
- The hackney carriage and private hire trade including all licensed operators within the district
- Parish Councils
- Derbyshire Constabulary
- Derbyshire Police & Crime Commissioner
- Chief Fire Officer for Derbyshire
- Derbyshire County Council Trading Standards
- Derbyshire County Council Transport
- Social Services, Child Protection Office

1.5 **Powers and Duties**

This Licensed Driver Medical Exemption Policy has been produced pursuant to the powers conferred by the Equality Act 2010, which gives Local Authorities the power to publish a list of wheelchair accessible vehicles (known as the Section 167 list).

When published, additional duties are placed on the drivers of those vehicles in relation to the carriage of passengers in wheelchairs (Section 165).

Drivers of vehicles that are on the Section 167 list are able to apply for a medical exemption from any of the duties listed under Section 165. In order to process an application for a medical exemption, the Council is required to set out a policy for exempting drivers on medical grounds.

1.6 Status

In exercising its discretion in publishing a Section 167 list, the Council will have regard to this policy document and the objectives set out below.

Notwithstanding the existence of this policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from its policy, reasons will be given for so doing.

2. SCOPE

In setting out its policy North East Derbyshire District Council seeks to promote the following objectives: -

- the protection of public health and safety;
- the establishment of a professional and respected hackney carriage and private hire trade;
- access to an efficient, effective and accessible public transport service; and
- the protection of the environment.

The aim of this policy is to regulate the hackney carriage and private hire trade in order to promote the above objectives.

3. PRINCIPLES

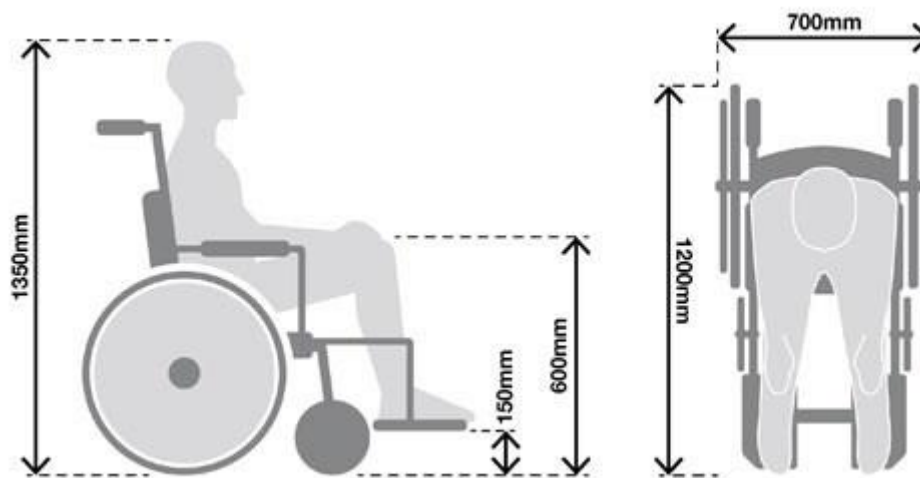
The Equality Act 2010 requires employers and service providers to make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

North East Derbyshire District Council is committed to encouraging an accessible public transport system in which disabled people have the same opportunities to travel as other members of society.

Hackney Carriages and Private Hire Vehicles are a vital link in the accessible transport chain and it is important that people who use wheelchairs or accredited assistance dogs can have confidence that drivers will accept them and their wheelchair or accredited assistance dog and carry them at no extra charge.

Section 167 of the Equality Act 2010 permits the Licensing Authority to designate Hackney Carriages and Private Hire Vehicles as being wheelchair accessible. The Department for Transport's Statutory Guidance on Access for wheelchair users recommends that vehicles should only be included in the list if it would be possible for the user of a "reference wheelchair" to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

A reference wheelchair is illustrated below: -



4. STATEMENT OF POLICY

Section 167 of the Equality Act 2010 permits the Licensing Authority to designate Hackney Carriages and Private Hire Vehicles as being wheelchair accessible. The vehicles identified as such shall be included on a list of designated vehicles.

4.1 Duties under the Act

The Equality Act 2010 (Section 165) places the following duties on drivers of designated wheelchair accessible Hackney Carriages and Private Hire Vehicles: -

- To carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat, to carry their wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- To give the passenger such mobility assistance as is reasonably required.

In addition, Sections 168 and 170 places the following duty on drivers of Hackney Carriages and Private Hire vehicles: -

- To carry the passenger's accredited assistance dog, allowing it to remain with the passenger and not make any additional charge for doing so.

Failure to comply with any of the above is an offence under the Act. A person that is found guilty of such an offence is liable, on conviction by the Magistrates' Court, to a fine of up to £1,000.

4.2 Exemptions and Appeals

In some circumstances a driver of a designated Hackney Carriage or Private Hire Vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, either short or longer term.

Section 166 of the Act allows Licensing Authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with the duties.

Sections 169 and 171 of the Act allow Licensing Authorities to exempt drivers from the duties to transport passenger's accredited assistance dogs if they are satisfied, that it is appropriate to do so on medical grounds. Exemptions can *only* be granted on medical grounds; religious or cultural grounds are not exempt.

To apply for a medical exemption certificate a driver must submit an application form to the Licensing Team along with a medical report from their General Practitioner or an Independent Medical Assessor appointed by the Council. The medical report must be dated no more than 28 days prior to submission of the application, detailing exactly what duties cannot be undertaken, why they cannot be undertaken and for how long they cannot be undertaken. This assessment will be at the applicant's expense as part of the application process.

Upon receipt the Licensing Team Leader will consider the evidence and may request further independent medical assessment to decide if the driver is: -

- Fit for work
- Temporarily unfit to carry passengers in wheelchairs and / or assistance dogs
- Permanently unfit to carry passengers in wheelchairs and / or assistance dogs (see below regarding Independent Medical Assessor).

If the driver is declared fit for work, no exemption certificate will be issued and a letter explaining the decision will be given to the driver.

All decisions on whether an exception should be granted or not are delegated to the Licensing Team Leader (or in their absence, a more senior officer of the Council). There is no provision under this policy for decisions to be referred to the Licensing Committee (or Sub-Committee).

Exemption certificates will be issued for a period of up to 12 months on the basis of information provided by the driver's GP, these exemptions will be termed "temporary exemptions" and a driver with such an exemption would be given a temporary exemption certificate.

Drivers will only be issued with one temporary exemption per medical condition on the basis of information provided by their GP. A further temporary exemption may be issued if such an exemption is supported by medical evidence from an Independent Medical Assessor. Such an exemption will only be valid for a period of up to 12 months after the expiry of the preceding temporary exemption (unless the Independent Medical Examiner confirms that a permanent exemption would be appropriate).

Prior to the expiry of a temporary exemption certificate the driver must contact the Licensing Team to either: -

- Confirm that they are fit to return to normal duties and return the temporary exemption certificate; or
- Arrange for a further medical assessment to be submitted for the Licensing Team Leader to consider extending the exemption certificate (as described above).

In order to receive medical exemption for a period in excess of 12 months, drivers will normally be required to undergo a medical examination by an Independent Medical Assessor that has been appointed by the Council. This may lead to a certificate being issued for a

defined period of time, or a permanent exemption certificate if the Medical Assessor is of the view that a permanent exemption is appropriate.

All costs charged by the Independent Medical Assessor must be met by the applicant.

If the driver does not agree with the decision to refuse the application for a medical exemption, Section 172 of the Act gives the driver a right to appeal the decision to the Magistrates' Court. The driver has 28 days from the date of refusal to appeal.

If the driver is declared permanently unfit to carry passengers in wheelchairs and / or accredited assistance dogs, an exemption certificate will be issued. The certificate will include a photograph of the driver who has been granted the exemption and must be displayed prominently in the vehicle for public viewing.

The exemption may be reviewed at any time with reference to expert medical evidence, and each case will be reviewed on its own merits. This may result in a further referral to independent medical assessors to determine if the driver remains medically unfit to carry passengers in wheelchairs and / or accredited assistance dogs.

4.2 Complaints

Any person wishing to make a complaint regarding any matter covered by this policy should address their concerns to the Licensing Team Leader using the contact details below: -

Address: Joint Environmental Health Service, Bolsover and North East Derbyshire District Councils, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG

Email: licensing@ne-derbyshire.gov.uk

Phone: 01246 217873

Complaints will be investigated in accordance with the Council's published enforcement policy and any other relevant guidance.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion, the appropriate officers as determined by the Council's delegations scheme.

This and other policies set out the principles that govern the Council's licensing of hackney carriage and private hire vehicle drivers, operators and vehicles. Minor modifications to conditions, specifications or procedures may from time to time be modified by officers acting under delegated powers, except where not appropriate to do so.