

Public Document Pack



**North East
Derbyshire**
District Council

Our Ref: AM/AJD

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Date: Friday, 2 September 2022

To: **All Members of the Council**

You are summoned to attend a meeting of the Council to be held on **Monday, 12 September 2022** at **3.00 pm** in the District Council Offices, Mill Lane, Wingerworth, Chesterfield S42 6NG.

Group meetings will be arranged, where necessary, by the Group Leaders.

The meeting will also be live streamed from the Council's website on its You Tube Channel. Click on the following link if you want to view the meeting:

[North East Derbyshire District Council - YouTube](#)

Yours sincerely

A handwritten signature in black ink that reads "Sarah Steuberg".

Assistant Director of Governance and Monitoring Officer

A G E N D A

1 Apologies for Absence

2 Declarations of Interest

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interests, not already on their register of interests, in any items on the agenda and withdraw from the meeting at the appropriate time.

3 Minutes of the Last Meetings (Pages 8 - 14)

To approve as a correct record and the Chair to sign the attached Minutes of the Annual Council meeting held on 23 May 2022.

To approve as a correct record and the Chair to sign the attached Minutes of the Ordinary Council meeting held on 23 May 2022.

4 Chair's Announcements

To receive any announcements which the Chair of the Council may wish to make at this meeting.

5 Leader's Announcements

To receive any announcements which the Leader of the Council may wish to make at this meeting.

6 Public Participation

In accordance with Council Procedure Rule No 8 to allow members of the public to ask questions about the Council's activities for a period up to fifteen minutes. The replies to any such questions will be given by the appropriate Cabinet Member. Questions must be received in writing or by email to the Monitoring Officer by 12pm (Noon), twelve clear working days before the meeting.

No questions were submitted under Procedure Rule No 8 for this meeting.

7 To answer any questions from Members asked under Procedure Rule No 9.2

Question 'A' – Councillor R Shipman to Councillor C Renwick, Portfolio Holder for Housing and Community Safety

On 18th February 2020, I made an enquiry on behalf of a group of local residents to lease land off Ankerbold Road, Tupton to be turned into a community orchard and wildlife area. After much delay because of 'volume of work', I was told this would be on the Asset Management Group meeting in January 2021. It eventually made in on that groups meeting in July 2021, where it was refused because of an ongoing Asset Management Review.

The only reason it fell inside any asset management review was because of NEDDC not dealing with the request in good time. I was told by the then Director this would take up to 12 months. For over 2 years this as resulted in NEDDC spending thousands of pounds maintaining this land, when there are willing volunteers to take it on.

Can the cabinet member inform me and the group of residents who are keen to progress this project, when the Asset Management Review was started and due to be completed, so that we can make use of this dormant piece of land in Tupton for residents to use and help the environment?

Question ‘B’ – Councillor O Gomez Reaney to Councillor A Powell, Portfolio Holder for Leisure, Communities and Communications

Recently, I have started working with the charity, the National Tremor Foundation.

The National Tremor Foundation, founded in 1992, is an organisation that aims to provide help, support and advice to all those living with all forms of tremor irrespective of age.

The foundation is a charity dedicated to people with tremors – its mission is to provide advice, support, publish information and promote research.

I would like to ask the Council if they would support the National Tremor Foundation in their efforts to spread awareness of tremors and provide advice and support for those who need it?

Question ‘C’ – Councillor J Birkin to Councillor C M Foster, Portfolio Holder for Council Services

On June 6th Cllrs received an e-mail cancelling the Full Council meeting scheduled for August 1st. This was the latest in a line of cancellations over recent months.

The Labour Group is very concerned about the consequent lack of democratic scrutiny of Council decisions. We are also concerned that constant cancellations of official meetings lead to a perceived lack of accountability of the Council and Councillors.

This decision means that there are only 5 Full Council Meetings scheduled between now and the end of the Financial Year.

Will the Portfolio Holder reassure the Council and the residents of North East Derbyshire that our concerns will be heeded and that meeting times and dates will continue to be undertaken as per the agreed schedule?

Question 'D' – Councillor T Reader to Councillor J Kenyon, Portfolio Holder for Economy, Transformation and Climate Change

Would the Cabinet Member tell Council how much of the £24M Clay Cross Town

Deal Fund has now been spent or committed, including detailing how much has been spent on employing external consultants?

8 To consider any Motions from Members under Procedure Rule No 10

In accordance with Council Procedure Rule No 10 to consider Motions on notice from Members. Motions must be received in writing or by email to the Monitoring Officer by 12pm (Noon), twelve clear working days before the meeting.

Motion 'A'

Moved by Councillor P Windley, Seconded by Cllr R Shipman

Council notes:

Lionesses won England their first major footballing trophy since the men's team won the World Cup in 1966.

The winning England Football team had players who are from within the district.

Football clubs have seen a massive influx of girls playing football across the district since the lionesses' victory.

The FA provides some limited funding support for the Wildcats Football programme for girls aged 5-11

Some teams are having to leave district for training facilities due to availability and cost.

FA states in its guidance that Football Clubs should have separate changing rooms in mixed gender sporting facilities for children.

There is a disparity in costs for things like their kit and the facilities they use for boys and girls going to larger football clubs.

Council resolves:

Explore ways to support football clubs with installing changing room facilities with funding and/or the planning department policies.

Assess pricing and availability at Council facilities, and see how these can be better utilised to provide facilities for girls teams.

To produce a plan to encourage and fund women and girls access to football, and present it to Council.

Motion 'B'

Moved by Councillor D Hancock, Seconded by Councillor P Windley

Council notes:

North East Derbyshire Community First Responders play a vital role in reaching North East Derbyshire residents before ambulance are able to arrive on the scene if an incident.

North East Derbyshire Community First Responders are made up of 14 volunteers

The organisation is self-funding by applying for money through national lottery grants, raffles and donations

Some consumables for the volunteers to use are provided through EMAS

North East Derbyshire Community First Responders have purchased an electric vehicle to carry out their duties across the district.

Council resolves:

To issue a grant of £9,300 to North East Derbyshire Community First Responders towards a year vehicle upkeep and a kit bag for one of the responders.

Motion 'C'

Moved by Cllr L Hartshorne, Seconded by Cllr N Barker

That many people in North East Derbyshire continue to struggle financially with the cost-of-living crisis and are living with the fear of things getting much worse during the course of this year and next.

Council believes that any refusal by government to offer more support over rising energy bills and to just focus on tax cuts would be nothing less than a holiday from reality. Council agrees that the answer to this cost-of-living crisis cannot be simply to reject further "handouts" and make tax cuts that would favour the wealthy and big businesses.

Council would oppose any government policy that safeguards the stock options of FTSE 100 executives over supporting the poorest in our society.

Council believes that much more must be done to help residents in North East Derbyshire this winter.

Council resolves to: -

- 1. Work with the voluntary sector to help and support families during this cost-of-living crisis.*
- 2. By working with Parish Council and other community groups explore the possibility of establishing 'warm zones' around the district for the use of*

residents throughout the winter.

3. *Write to the new Prime Minister calling on him/her to freeze the energy price cap and to ensure that people on prepayment meters do not have to pay more for their energy than others.*

9 Standards Committee Annual Report 2021-22 (Pages 15 - 21)

Report of Councillor W Armitage, Chair of the Standards Committee

10 Scrutiny Committees Annual Report 2021-22 (Pages 22 - 32)

Report of the Chairs of the Audit and Corporate Governance, Communities, Growth and Organisation Scrutiny Committees.

11 Appointments to Committees (Pages 33 - 39)

Report of the Assistant Director of Governance and Monitoring Officer

12 Local Offer for Children in Care and Care Leavers (Pages 40 - 44)

Report of Councillor A Dale, Leader of the Council

13 Community Governance Review - Stonebroom - NOW PUBLISHED (Pages 45 - 62)

Report of the Assistant Director of Governance and Monitoring Officer

14 Adoption of the Revised Taxi Licensing Policies (Pages 63 - 181)

Report of Councillor M Foster, Portfolio Holder for Council Services

15 Sharley Park Leisure Centre- Update

Presentation by the Director of Growth and Assets

16 Chair's Urgent Business (Public)

To consider any other matter which the Chair is of the opinion should be considered as a matter of urgency.

17 Exclusion of Public

The Chair to move:-

That the public be excluded from the meeting during the discussion of the following item of business to avoid the disclosure to them of exempt information as defined in Paragraphs 1, 2 and 3, Part 1 of Schedule 12A to the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006).

18 Treasury Management Update - Northwood Group Ltd (Pages 182 - 191)

Report of Councillor P Parkin, Portfolio Holder for Finance

(Paragraph 3)

19 Councillor Dispensation (Pages 192 - 201)

Report of the Assistant Director of Governance and Monitoring Officer

(Paragraph 1 and 2)

20 Chairs Urgent Business (Private)

To consider any other matter which the Chair is of the opinion should be considered as a matter of urgency.

We speak your language

Polish

Mówimy Twoim językiem

Romanian

Vorbim limba dumneavoastră

Urdu

ہم آپ کی زبان بولتے ہیں

Chinese

我们会说你的语言



North East
Derbyshire
District Council



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COUNCIL

MINUTES OF MEETING HELD ON MONDAY, 23 MAY 2022

Present:

Councillor Martin E Thacker MBE JP (Chair)

Councillor Diana Ruff (Vice-Chair)

Councillor Pat Antcliff
Councillor Nigel Barker
Councillor Joseph Birkin
Councillor Andrew Cooper
Councillor Charlotte Cupit
Councillor Lilian Deighton
Councillor Peter Elliott
Councillor Angelique Foster
Councillor Roger Hall
Councillor Lee Hartshorne
Councillor Maggie Jones
Councillor Pat Kerry
Councillor Heather Liggett
Councillor Paul Parkin
Councillor Alex Platts
Councillor Alan Powell
Councillor Michael Roe
Councillor Ross Shipman
Councillor Kevin Tait
Councillor Philip Wheelhouse
Councillor Brian Wright

Councillor William Armitage
Councillor Jayne Barry
Councillor Stephen Clough
Councillor Suzy Cornwell
Councillor Alex Dale
Councillor David Drabble
Councillor Michelle Emmens
Councillor Mark Foster
Councillor David Hancock
Councillor Anthony Hutchinson
Councillor Jeremy Kenyon
Councillor Barry Lewis
Councillor Gerry Morley
Councillor Stephen Pickering
Councillor Maureen Potts
Councillor Oscar Gomez Reaney
Councillor Kathy Rouse
Councillor Bentley Strafford-Stephenson
Councillor Richard Welton
Councillor Pam Windley
Councillor Philip Wright

Also Present:

| | |
|-------------|-----------------------------------------------------------|
| M Broughton | Director of Growth and Assets |
| J Dethick | Director of Finance and Resources & (Section 151 Officer) |
| L Hickin | Managing Director - Head of Paid Service |
| S Sternberg | Assistant Director of Governance and Monitoring Officer |
| A Maher | Interim Governance Manager |
| A Bond | Governance Officer |

COU Election of the Chair of Council

/1/22

-23

Councillor Alex Dale spoke to Council in support of his motion for Councillor D Ruff to be elected as Chair of the Council for the 2022-23 Municipal Year. Councillor C Cupit seconded his motion.

RESOLVED – That Councillor D Ruff be elected Chair of the Council for the 2022/23 Municipal Year.

COU Address of Gratitude to Members by the Newly Elected Chair of Council

/2/22

-23

Councillor D Ruff spoke to Council thanking Members and the Leader and

Deputy Leader for their kind words.

She explained that it would be an honour and privilege to serve the Community and that she would build upon the hard work of previous Chairs of the Council.

The Chair informed Council that she would support the Soldiers, Sailors, Airforce and Families Association (SSAFA) through her charity appeal in order to raise awareness and funds for their work.

COU Address of Gratitude to the Outgoing Chair of Council

/3/22

-23

The Chair for the previous Municipal Year, Councillor M E Thacker MBE, was presented with a past Chair's badge and an album of photos recording his year in office.

Councillor D Ruff thanked Councillor M E Thacker MBE on a fantastic year and also gave thanks to his consort and his PA, Joe Bradley.

Councillor M E Thacker MBE congratulated Councillor D Ruff on her election as Chair, he recounted that it had been a great privilege to serve in the role himself.

Council heard of a number of events that Councillor M E Thacker MBE had attended across Derbyshire such as a memorial service for Prince Philip and a Jubilee commemoration at Derby Cathedral. As well as this, there was also recognition of others when attending emergency services day, the voluntary sector awards and many events linked to the armed forces convention. Councillor M E Thacker MBE drew attention to his visit to Darmstadt-Dieburg where he promoted meaningful links between the area and North East Derbyshire.

Members heard that a variety of fund raising activities had taken place throughout the year in support of his charity appeal, the Ashgate Hospice. Councillor M E Thacker MBE thanked all those who had contributed to his Charity Appeal and gave special thanks to Councillor B Strafford-Stephenson and Councillor J Barry for their efforts.

Councillor Strafford-Stevenson congratulated and thanked the former Chair for his work noting that the year had been full of scheduled events that benefited the community as a whole.

Councillors J Barry, D Hancock, A Dale and B Lewis echoed these comments and thanked the former Chair for his work over the year. Councillor A Dale noted that the outgoing Chair had attended over fifty events on behalf of the Council and ran over thirty events himself.

COU Apologies for Absence

/4/22

-23

Apologies for absence had been received from Councillors J Funnell, E A Hill, T Lacey, J Lilley, T Reader, C Renwick, J Ridgway, and L Stone.

COU Declarations of Interest

/5/22

- 23** Councillor R Hall declared an interest in Item 14 – Adoption of the Revised Taxi Licensing Policies, as he was a badge holder for a different authority. He indicated that he would withdraw from the meeting during the discussion of the item.

COU Minutes of the last Meeting

/6/22

- 23** RESOLVED – That the Minutes of the meeting of Council held on 25 April 2022 be approved as a correct record and signed by the Chair.

COU Election of Vice Chair of Council

/7/22

- 23** One nomination had been received for the position of Vice Chair of the Council for the 2022-2023 Municipal Year.

Councillor A Dale spoke to Council in support of his nomination for Councillor M E Thacker MBE. The motion was seconded by Councillor C Cupit

RESOLVED – That Councillor M E Thacker MBE be appointed Vice Chair of the Council for the 2022-2023 Municipal Year.

COU Composition of the Cabinet

/8/22

- 23** The Leader informed Council of the Cabinet Members and their Portfolios for the 2022-23 Municipal Year.

Councillor A Dale

Leader and Portfolio Holder for Overall Strategic Leadership

Councillor C Cupit

Deputy Leader and Portfolio Holder for Environmental Services

Councillor M Foster

Portfolio Holder for Council Services

Councillor Jeremy Kenyon

Portfolio Holder for Economy, Transformation and Climate Change

Councillor Paul Parkin

Portfolio Holder for Finance

Councillor Alan Powell

Portfolio Holder for Leisure, Communities and Communication

Councillor Carolyn Renwick

Portfolio Holder for Housing & Community Safety

RESOLVED – That Council notes the Cabinet for the 2022/2023 Municipal Year.

COU Scheme of Delegation

/9/22

-23

Members considered a report of the Assistant Director of Governance and Monitoring Officer that requested Council approve the Scheme of Delegation as outlined in Part 3 of the Council's Constitution.

The Monitoring Officer advised that it was a requirement under Council Procedure Rule 1.1 of the Council's Constitution that the Annual Meeting agreed the Scheme of Delegation. The Scheme also outlined proper officer provisions.

RESOLVED – That Council's Scheme of Delegation as set out in the Council's Constitution be approved.

COU Appointments of Chairs and Vice Chairs

/10/2

2-23

A list of proposed appointments of Chairs and Vice Chairs of Committees had been circulated by the Majority Group. Councillor A Dale and Councillor C Cupit proposed and seconded the motion to approve the proposed appointments.

Councillor R Shipman raised concerns that he believed the Chairs and Vice Chairs of the Scrutiny Committees should not be members of the Majority Group.

RESOLVED – That the proposed Chairs and Vice Chairs for Committees as circulated by the Majority Group for the 2022/2023 Municipal Year be approved.

COU Appointments to Committees and Advisory Groups - Proportionality

/11/2

2-23

A list of proposed appointments to Committee and Advisory Groups had been circulated.

Councillor A Dale and Councillor C Cupit proposed and seconded the motion to approve the proposed appointments.

RESOLVED – That council approve the appointment of Members to Committee and Advisory Groups for the 2022/2023 Municipal Year.

COU Appointments to Outside Bodies

/12/2

2-23

Councillor N Barker and Councillor J Barry moved and seconded a motion to nominate Councillor M Jones to fill the vacancy on the Holmegate Darby and Joan Club, following the sad passing of Councillor A Holmes.

Councillor A Dale informed Council of a number of changes to the list of Outside Bodies as set out within the report. Council was informed that Councillor C Renwick be appointed to the Community Safety partnership and the Ridgway Sports & Social Club and that; Councillor W Armitage be appointed to the Derbyshire Police and Crime Panel.

RESOLVED – That the appointments to outside bodies for 2022/2023 be approved.

COU Operation of Urgency Rules and Thresholds for Key Decisions

/13/2

2-23

Council considered a report of the Assistant Director of Governance & Monitoring Officer, which advised of Decisions taken under Special Urgency Rules in the past twelve months and the financial limits for the Key Decisions.

Council was required under legislation to report instances where Special Urgency Rules had been utilised in respect of Key Decisions. This was where it was impractical to give the requisite notice of Key Decisions before they were made.

Council noted that no decisions had been taken under Special Urgency Rules.

Council also had a constitutional requirement to advise of those occasions when it had taken decisions where call-in provisions had been waived. The Council had not taken any such decisions in the previous twelve months.

Council noted that it was a requirement at its Annual Meeting to review the thresholds for Key Decisions. The current thresholds for Key Decisions were recommended to continue and were as follows:

- Revenue (income, savings or expenditure) £100,000
- Capital (income or expenditure) £250,000.

RESOLVED – That Council:

1. Noted that no decisions have been taken over the past 12 months under Special Urgency Rules in the Council's Access to Information Rules.
2. Noted that no decisions taken over the past 12 months under the urgency provisions (called General Exception) in the Council's Access to Information Rules.
3. Agreed that the financial thresholds for Key Decisions be maintained at £100,000 (Revenue) and £250,000 (Capital)

COU Adoption of the Revised Taxi Licensing Policies

/14/2

2-23

The consideration of this item was deferred.

COU Chair's Urgent Business

/15/2

2-23

There was no Chair's urgent business. The Chair declared the meeting closed.

COUNCIL

MINUTES OF MEETING HELD ON MONDAY, 23 MAY 2022

Present:

Councillor Diana Ruff (Chair)
Councillor Martin E Thacker MBE JP (Vice-Chair)

| | |
|------------------------------|-----------------------------------------|
| Councillor Pat Antcliff | Councillor William Armitage |
| Councillor Nigel Barker | Councillor Jayne Barry |
| Councillor Joseph Birkin | Councillor Stephen Clough |
| Councillor Andrew Cooper | Councillor Suzy Cornwell |
| Councillor Charlotte Cupit | Councillor Alex Dale |
| Councillor Lilian Deighton | Councillor David Drabble |
| Councillor Peter Elliott | Councillor Michelle Emmens |
| Councillor Angelique Foster | Councillor Mark Foster |
| Councillor Roger Hall | Councillor David Hancock |
| Councillor Lee Hartshorne | Councillor Anthony Hutchinson |
| Councillor Maggie Jones | Councillor Jeremy Kenyon |
| Councillor Pat Kerry | Councillor Barry Lewis |
| Councillor Heather Liggett | Councillor Gerry Morley |
| Councillor Paul Parkin | Councillor Stephen Pickering |
| Councillor Alex Platts | Councillor Maureen Potts |
| Councillor Alan Powell | Councillor Oscar Gomez Reaney |
| Councillor Michael Roe | Councillor Kathy Rouse |
| Councillor Ross Shipman | Councillor Bentley Strafford-Stephenson |
| Councillor Kevin Tait | Councillor Richard Welton |
| Councillor Philip Wheelhouse | Councillor Pam Windley |
| Councillor Brian Wright | Councillor Philip Wright |

Also Present:

| | |
|-------------|-----------------------------------------------------------|
| M Broughton | Director of Growth and Assets |
| J Dethick | Director of Finance and Resources & (Section 151 Officer) |
| L Hickin | Managing Director - Head of Paid Service |
| S Sternberg | Assistant Director of Governance and Monitoring Officer |
| A Maher | Interim Governance Manager |
| A Bond | Governance Officer |

COU Apologies for Absence

/16/2

1-22 Apologies for absence had been received from Councillors J Funnell, E A Hill, T Lacey, J Lilley, C Renwick, T Reader, J Ridgway and L Stone.

COU Declarations of Interest

/17/2

1-22 Councillors B Wright and G Morley declared an interest in Item 3 – Upgrade of Football Pitch and Path Installation at Sharley Park, as they were trustees of the of the Clay Cross and Danesmoor Miner's Welfare Charity in a personal capacity. They indicated that they would withdraw from the meeting during the discussion of the item.

COU Upgrade of Football Pitch and Path Installation at Sharley Park

/18/2

1-22

The Chair explained that this additional meeting had been called so that the Council could exercise its responsibilities as Trustee of the Clay Cross and Danesmoor Miner's Welfare Recreation Ground Charity, by virtue of a Charity Commission Order dated 8 September 1988. Members were informed that this charity is subdivided into two further charities, one of which is the Recreation Ground Charity. The order stipulates that the object of the Recreation Ground Charity is "to provide and maintain in the interests of social welfare a recreation ground for the benefit of the inhabitants of 6h4 Parish of Clay Cross and the neighbourhood thereof without distinction of political, religious or other opinions, with the object if improving the conditions or life for the said inhabitants".

The report to Council proposed that the Council now exercise its trustee responsibilities and agree to install and maintain a high standard 3G pitch and a 'measured mile' footpath/cycle path across trust land in Clay Cross.

Members were informed that in January 2022 the Council had agreed investment in the Sharley Park Leisure Centre redevelopment in line with the masterplan contained within the report. The Council managed and operated the entire site but two parcels of land were owned by Clay Cross & Danesmoor Miner's Welfare Recreation Ground Charity of which the Council acted as a Trustee.

Council noted that they had to act within the best interests of the charity and the beneficiaries of the Charity and that the Council would hold the legal responsibility for maintaining the pitch. Members heard that there were no anticipated maintenance costs or liabilities for the Charity.

Councillor A Powell and Councillor C Cupit moved and seconded a motion to install a 3G pitch and footpath/cycle path.

The motion was put to a vote and agreed.

RESOLVED – That Council

1. As trustee agreed to the upgrade of the existing football pitch with the installation of a 3G pitch (and associated infrastructure) operated and installed by North East Derbyshire District Council or its contractors.
2. That the Council as trustee agreed to the installation of a footpath/cycle path across trust land installed by North East Derbyshire District Council or its contractors.

COU Chair's Urgent Business

/19/2

1-22

There was no Chair's urgent business. The Chair declared the meeting closed.



**North East
Derbyshire**
District Council

Standards Committee Annual Report 2021/22

Standards Committee Annual Report 2021/22

The Annual Report outlines the work of the Standards Committee during the municipal year 2021/22 and covers the following subjects:

- 1 Chair and Vice Chair of the Committee
- 2 Parish/Town Council Representatives
- 3 Register of Interests Forms
- 4 Complaints received during 2021/22
- 5 Reports of Independent Persons
- 6 Local Government Ombudsman Complaints 2021/22
- 7 Policy and Constitution Review Work
- 8 Guidance and reports considered by the Committee

1. Chair and Vice Chair of Standards Committee 2021/22

- 1.1. At the Annual Council meeting in April 2021, Councillor William Armitage was appointed as the Chair of Standards Committee, with Councillor Heather Liggett appointed as the Vice Chair.

2. Appointment of Parish/Town Council Representatives

- 2.1. During 2021/22 two new Parish and Town Council Representatives were elected as co-opted Members of the Committee. Pat Coleman of Wingerworth Parish Council and Trevor Collins of Wingerworth Parish Council.

3. Register of Interests Forms

- 3.1. Register of Interest Forms for District and Parish Councillors continue to be issued to and completed by new councillors, following by-elections or co-option.
- 3.2. Councillors are also reminded to update their Register of Interests within 28 days of any changes.
- 3.3. All completed forms that had been returned have been published on the District Council's website.
- 3.4. As part of the roll out of the Modern.Gov system, the Governance department are looking to enable these forms to be completed electronically by District Council Members using the Modern.Gov system. Standards Committee will receive further details of these proposals at a future date.

4. Complaints received during 2021/22

- 4.1. The Council received five complaints relating to members acting in their capacities as Parish/Town Councillors, and four complaints relating to a NEDDC District Councillor. One complaint related to both a District and a Parish Councillor. Of the complaints, nine resulted in no further action and one complaint resulted in the Councillor being advised to apologise and attend a Member training event.
- 4.2. During the previous year (2020/21) 18 complaints were received against a District, Parish or Town Councillor.

5. Reports of Independent Persons

- 5.1. During the course of 2021/22 it became necessary to recruit a new Independent Person following the resignation of one of the two Independent Persons. The recruitment exercise was so successful that Council on 26 April 2021 was invited to appoint 2 new Independent Persons in addition to the existing Independent Person.
- 5.2. The Council's current three Independent Persons are:

- Amanda Orchard
- David Richardson
- Graham Hudson

5.3. The Independent Persons have been asked to provide a brief report of their activities.

6. Local Government Ombudsman Complaints 2021/22

- 6.1 The Council received its Annual Review letter from the Local Government Ombudsman on the 21 July 2021. It contained information on how many complaints and enquiries had been referred to the Local Government Ombudsman and how many complaints were upheld or referred back for local resolution.
- 6.2 There were 13 complaints and enquiries submitted to the Local Government and Social Care Ombudsman. Three of these were not investigated, four complaints were not received by NEDDC and therefore did not follow the required process, one related to a premature complaint and was referred back for local resolution, three complaints were not within scope of the Council's policy as they related to Rykneld Homes and, two complaints were upheld by the LG&SCO.
- 6.3 Of the two upheld complaints the recommendations were as follows:
- Complaint 20003123 was upheld by the LG&SCO it was recommended that the Council offer to obtain and plant a semi-mature evergreen tree that would provide some screening to the complainant's kitchen and balcony. Provide an apology and a payment of £100 to reflect the frustration and inconvenience caused through the Council's handling of the complaint.
 - Complaint 20004769 was upheld by the LG&SCO as there was evidence of fault causing injustice which the Council agreed to remedy. It was recommended that the Council apologise to the complainant, pay £250 to acknowledge the frustration and uncertainty of its poor communication that it had caused. Offer to reinstate noise monitoring equipment and review how it communicates with complainants to ensure it's clear about the action it's proposing to take around whether or not noise is a statutory nuisance.

7. Policy and Constitution Review Work

7.1 Constitution Review

The Standards Committee have undertaken their duty to carry out a review of the Constitution. All revisions were put to the April meeting of Council for approval which included:

- Questions by Members to Meetings of Council
- Debt Write Off Limits
- Proper Officer Provisions in respect of Public Health

- New TORS for JSCC
- Review of the Guidance and Constitutional Rules on Public Speaking at Council.
- Training Requirements for Councillors.
- Renumbering of the Articles.
- Delegation Scheme – Property Sale.
- Petitions Scheme.
- MO Delegations.
- Clarifications on Delegations Scheme in relation to ACPA 20112.
- Planning and Licensing Decisions (rejected).
- Delegations for Officers in Acting-Up Positions.
- Renaming of the JEAC to the EAC.
- Licensing Sub-Committees.
- Delegations in relation to the Management Agreement with Rykneld.
- Housekeeping Changes (Such as formatting and job titles)

7.2 **Whistle-blowing Policy**

At its meeting on 26 January 2022 the Standards Committee considered the Whistleblowing Policy.

North East Derbyshire District Council and Bolsover District Council have previously had in place a Joint Whistleblowing Policy. This has now been adapted to a North East Derbyshire only policy.

In accordance with the Whistleblowing Policy, the Monitoring Officer has overall responsibility for the maintenance and operation of the Policy, and will maintain a record of concerns raised and the outcomes. The current Whistleblowing Policy has been reviewed by Standards and no substantive changes were recommended other than housekeeping amendments.

The Monitoring Officer is also required to report as necessary to Council on instances of Whistleblowing. There have been no instances to report for the 2021 calendar year.

7.3 **The Councillors Code of Conduct**

The Standards Committee considered a report that outlined a new Code of Conduct for Councillors based on the new Local Government Association Moral Code at their meeting on the 30 June 2021. This was recommended to Council and approved at the Council meeting on 12 July 2021.

Standards Committee considered that training should be undertaken on the Code of Conduct for Councillors and a number of training events for District and Parish Councillors took place towards the end of 2021.

The Monitoring Officer, and the Standards Committee, were obliged to publicise the adoption of the new Code to the Parish and Town Councils in the North East Derbyshire Council area and recommend it to each for adoption.

8. Guidance and reports considered by the Committee

As part of the Committee's remit, the Committee considered a review of the RIPA policy and proposals for training relevant officers. RIPA is the Regulation of Investigatory Powers Act 2000 and is the legislation which regulates the use of covert surveillance in the public sector for the more serious offences. Although it is little used by the Council, as it is preferred that investigations are overt, it is necessary for the policy and training to be kept up to date. The Council is inspected regularly (about every 3 years) by the Investigatory Powers Commissioner's Office whether or not the powers have been used. The latest light touch inspection was carried out in 2021.

The Committee also carried out its annual review of the Gifts and Hospitality Register entries. The Standards Committee noted the entries that had been made and reinforced the guidance on Gifts and Hospitality. As part of the Mod.Gov implementation this will become an electronic process.

In accordance with the Standards Committee Terms of Reference, the committee reviewed attendance at Member Training events. Sadly attendance was not as good as would be liked.

The Standards Committee approved an advice sheet (Aide Memoire) on Member and Officer Relations for circulating to all Members. This was a simple reminder of the rules applicable to both officers and members.

9. Monitoring Officer

During the course of the year, the Council approved the establishment of a full time Monitoring Officer for the Council. This came into effect from the beginning of February 2022. This has and continues to provide considerable extra resource to the Council.

APPENDIX 1 REPORT OF THE INDEPENDENT PERSONS

Report of the Independent Persons 2021/2022

Report of Graham Hudson:

February 2022

A complaint was raised about an alleged irregularity in declaring an interest at a meeting in that it was not declared at the earliest opportunity. In this case I fully agreed with the Monitoring Officer's opinion that the formal record of the meeting (minutes) be used to determine the facts and that there was no breach of the code of conduct.

November 2021

A complaint against a Councillor for using derogatory language was reviewed. While I agreed with the Monitoring Officer that there had not been a serious breach of the Code of Conduct, it should be noted by members that phrases, however light hearted they may appear at face value, have the potential to have a far deeper meaning to those persons at which they are directed, particularly in relation to their mental health. The draft findings were that there was not a serious breach of the Councillor's Code of Conduct. I agreed with this and the recommendations that members should be reminded of the Social Media Policy and specifically its links to the Code of Conduct.

June 2021

This complaint was made in relation to Councillors speaking at a planning committee meeting. The complainant having had their application declined, objected to Councillors who were not on the committee speaking at the meeting from the public gallery. This was found to be entirely in line with procedures and therefore no breach of the Code of Conduct.

Report of Amanda Orchard:

I have been engaged on very few occasions during the last financial year which is usually an indication of a fairly low levels of complaint/conflict between councillors and the public. I have only been engaged with as a first step in the process on one occasion which I'm pleased to say has meant that matters haven't progressed further to a hearing stage. I am delighted that this is the position of the Council but remain on hand to offer advice where appropriate from an independent perspective.

Report of David Richardson:

I was appointed as an Independent Person to the Council at the beginning of 2021/22. During the last year, I was consulted on two complaints, each against Members of Parish Councils. In both cases I was satisfied the complaints procedures had been properly applied and that officers had proportionately investigated the allegations. I broadly concurred with the conclusions reached about the complaints. Although I was not entirely convinced that a breach of the Code had occurred in one case, the matter was finely balanced and I was satisfied the Investigating Officer's contrary view was not an unreasonable judgment.

ANNUAL REPORT

OVERVIEW AND SCRUTINY

2021/22

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Chairs and Vice Chairs of Scrutiny Committees 2021/22

Audit and Corporate Governance

Chair - Councillor M E Thacker M.B.E
Vice Chair - Councillor M Roe

Communities

Chair - Councillor K Tait
Vice Chair - Councillor B Lewis

Growth

Chair - Councillor B Strafford-Stephenson
Vice Chair - Councillor M Emmens

Organisation

Chair - Councillor S Clough
Vice Chair - Councillor H Liggett

1. A Summary of the Work Undertaken during 2021/22

- 1.1 Each of the Committees has completed its Work Programme with the time available shared between Scrutiny review work, consideration of key strategies and policies of the Council and performance monitoring. They have also discussed the impacts of the Pandemic on their areas.
- 1.2 The Committees have also been monitoring the delivery of action plans from a number of previous scrutiny reviews. Progress against the action plan on Business Centres and Industrial Units had been satisfactory and had been signed off as complete. Lead Officer responses had also been received from previous Scrutiny Reviews into Childhood Obesity and Residential Parking and updates on the delivery of these action plans will continue to be provided.

2 Current Scrutiny Reviews

- 2.1 Three Scrutiny Reviews were undertaken this year and a number of recommendations were made for improvement. These will be considered by Cabinet and if the recommendations are accepted they will be translated into action plans for delivery. Full copies of the reports and all previous reports can be viewed on the Council's intranet or by contacting the Senior Scrutiny Officer (damon.stanton@ne-derbyshire.gov.uk).

2.2 Potential 'out of hours' service

The Communities Scrutiny Committee decided to review whether or not there was sufficient demand for an out of hours service for the Council to provide.

A number of documents and evidence were considered by the Committee to help inform the review. These included active service requests from a number of different departments including Environmental Health, Streetscene, Planning Enforcement, Community Safety, and Rykneld Homes.

The Environmental Enforcement Team Leader and the Community Enforcement Manager (Bolsover District Council) provided scene setting presentations where the benefits of an out of hours service were outlined to the Committee, and current provisions were contrasted with the work and remit of the Community Enforcement Ranger at Bolsover District Council. The Committee then interviewed service managers to ascertain whether there was sufficient demand for an out of hours service and how it might work at the Council.

The review panel concluded that an out of hours service at this present time may not be needed due to a lack of demand, an unclear remit, and costs. Members agreed that the existing arrangements which the Council provided were sufficient and remained good value to residents.

2.3 Business Engagement

The Growth Scrutiny Committee chose to undertake a spotlight review into the Council's engagement with business. The Committee felt that this was timely given

the need to support the District's businesses following the Pandemic and emergence of economic uncertainties.

The review panel considered a number of documents including evidence submitted in the form of briefing papers from officers, project updates from the Council's Business Advisor, business skills audits, and project evaluations. They considered a scene setting presentation from the Director of Growth and the Senior Regeneration Officer and Urban Designer on the implementation of the Growth Strategy and how business engagement was being conducted.

Interviews were conducted with the Assistant Director – Economic Development, Regeneration and Housing Delivery, as well as the Council's Business Consultant, Business Advisor from D2N2, and the Chief Executive of a business in the District.

The review process identified a number of measures the Council was taking to engage and support local businesses within the District and promote economic growth. However, some areas for improvement which would enhance the current provision were identified around defining and communicating exactly what the Council offered so that the support was packaged in a clear and effective way.

The Committee agreed that there was scope for the review to be widened and therefore decided to expand and extend the review into the next municipal year. Other areas would be considered such as the Council's distribution of Covid-19 business grants where the Authority had received positive feedback from businesses, as well as other Council departments which had engaged with businesses in the District.

2.4 ICT & Transformation – Digital Transformation

The Organisation Scrutiny Committee agreed to undertake a review of ICT & Transformation – Digital Transformation. The Committee felt it was important to review this area following the pandemic and the accelerated move towards digital services to see how this has impacted staff and residents.

The Committee considered a number of documents which included the NEDDC Digital Skills Survey 2020, NEDDC Digital Transformation Strategy, and NEDDC Citizens Panel Summary Report November 2021. The Review Panel also considered specific data from service managers as to how their services were becoming more digitalised.

Scene setting was provided by the Director of Transformation and the Portfolio Holder for Economy, Transformation and Climate Change. A number of Interviews were held including with the Projects and Development Manager, Customer Services Manager, Environmental Health Manager, Revenues and Benefits Manager, and Communications and Marketing Design Manager.

The review panel heard views from a wide range of stakeholders during the review process. Members were impressed with the scale of transformation which had taken place, however, concluded, some improvements could be made such as implementing cloud based IT systems for staff, a single 'sign on' system for

residents which would help streamline and simplify online services, and explore a partnership with Citizens Advice in assisting with their Digital Connect Project.

3 Scrutiny Committees

3.1 Audit and Corporate Governance

During the year the Committee met on seven occasions. The Committee has a busy schedule each year having responsibility for oversight and scrutiny on a range of financial and governance matters on a regular basis to ensure the Council's governance and accountability arrangements remain robust. In addition, the Committee has undertaken several financial scrutiny reviews to provide further assurance that financial and governance matters in place are effective.

At each meeting the Committee receives reports from both the Internal and External Auditors, summarising work undertaken during the reporting period and updating the Committee on any matters arising. The Committee receives a financial and risk update at each meeting, as well as scrutinising the Council's corporate debt position.

The Committee has responsibility for signing off the annual Statement of Accounts and Annual Governance Statement each year and did so in September following presentation of the Audit Completion report from the External Auditor. The Committee recommended to Council that the Letter of Representation be approved. The Committee has responsibility for signing off the Accounting Policies each year, which was undertaken in February.

The Committee has responsibility for scrutinising the Medium Term Financial Plan before it is presented to Council for approval. This was undertaken in January alongside a detailed review of the Council's Treasury Management Suite of Strategies, prior to presentation to Council. The Plan is scrutinised periodically.

During the year, the LGA have established a forum for Audit Chairs to meet and share experiences and ideas with each other. The first meeting of the forum was facilitated by NEDDC with Councillor Thacker in the Chair.

In addition to all of the above, the Committee reviewed and scrutinised a number of other matters during the municipal year, some of which are detailed below:

- The Committee scrutinised the Anti-Fraud and Corruption Strategy.
- The Committee completed a self- assessment to review its own effectiveness and identify strengths/areas for development. This is best practice, as recommended by CIPFA and completed annually. Outcomes are added to the Committee's work plan and progress reviewed the following year.

- The Committee received a report on Ethical Investments and the Council's response for scrutiny.
- The Committee was provided with financial benchmarking data to review and provide assurance on the Council's Financial Resilience. This is a recommendation from CIPFA's Financial Management Code, which the Committee scrutinised during the last municipal year.
- The Committee reviewed proposed arrangements for the PSAA contract for external audit services, prior to approval by Council.
- The Committee received a presentation on the Council's response to Cyber Security, in the wake of the Cleveland and Redcar ransomware attack.
- The Committee received an update on the financial arrangements in place for collecting S106 contributions and asked for further information to be presented to a future meeting.
- The Committee scrutinised the Internal Audit report on Digital transformation.
- The Committee reviewed the Council's current investment strategy and made recommendations to Cabinet on proposed changes to approach, within the confines of the policy.
- The Committee began to undertake a review of the financial implications of implementing a residential car parking improvement programme, this work is still ongoing.

3.2 Communities Scrutiny Committee

During the year the Committee met on seven occasions. The Council's Partnership Officer attended the Committee to update on the progress of the Healthy North East Derbyshire Partnership during the 2021/22 year. The Partnership was established in 2015 and was chaired by the Public Health Localities Lead for North East Derbyshire and Bolsover at Derbyshire County Council. The NEDDC Partnership Team was responsible for managing the funding and commissioning the projects of the HNED Partnership. Members heard that there were a number of priorities in the Plan including building healthy communities, promoting healthy lifestyles, and supporting access to effective health and social care. Members were informed that Covid-19 continued to be felt on activities and the impact it had on wider health. The Committee was also updated on the progress of a number of projects including 'Walking into Communities', Digital Connect, and Living Well Programme. Members discussed the projects that the HNED Partnership were delivering and enquired about 'Vision Derbyshire', mental health and wellbeing, referral processes, and the Partnership's plans for the future. The Partnership Officer also advised that Public Health England had moved to a local approach and

that the HNED Partnership was part of a partnership between local health authorities.

The Committee is statutorily required to review the Council's Community Safety Partnership under the Police and Crime Act. The Community Safety Partnership Manager outlined for the Committee the performance of the Community safety Partnership during 2021/22. The Committee heard that figures and dates this year were compared with figures from 2019 as this avoided the abnormality presented by the pandemic.

The Committee heard that reported crime had increased by 9.1% which equated to an extra 474 crimes. This was on par with Derbyshire and the nation as a whole. Stalking and harassment had seen the largest increase which was at 20.1% and that public disorder had seen an increase of 132 crimes. The increases in Police recorded crime are thought to be mainly due to improved recording practices and more reporting. Specifically in Derbyshire stalking and harassment are now counted as separate crimes when a more serious crime is committed.

Various areas of work within the Partnership was outlined which included the Domestic Abuse Act, Prevent Strategy, Target Hardening Project, Community Triggers and Domestic Homicide Reviews. Members also heard about the tools and powers that could be utilised by the Partnership which included Criminal Behaviour Orders, Community Protection Warnings, and Fixed Penalty Notices.

The Community Safety Manager discussed Anti-social Behaviour week which was held nationally in July and what had worked well this year which included relationships with partner organisations such as the Police and Rykneld Homes.

The Committee considered a Housing update from the Housing Options Manager to give an overview of the Council's homelessness service. The update outlined a number of important elements that oversaw the service including a history of homeless legislation, what homelessness was, the Homelessness Reduction Act 2018, and how the authority responded to homeless residents. Members heard how the Authority had responded to the Government's call for all homeless people to be brought into accommodation in March 2020 due to the pandemic, as well as current strategies to prevent and support those who were homeless.

The Streetscene and Waste Services Manager attended the Committee and provided an update on the service performance of Street scene. Members heard that Street scene was responsible for a number of services including waste and recycling, street cleaning, grounds maintenance and fleet management. The service had 135 frontline staff and 160 fleet vehicles where an estimated 3.4 million household property bins were emptied per year. Members were informed that due to the pandemic, the annual total of residual / domestic waste had increased by over 5000 tonnes together with a reduction in recycling collected. Street scene were also responsible for grounds maintenance which included the Council's parks and green spaces, maintenance on behalf of Parish Councils, environmental maintenance arrangements on highways, street cleansing, and trees and grass cutting.

The Committee received an update from the Improvement Officer on current communication provisions for residents with disabilities. A range of measures that the Council had in place were outlined such as subtitles on leisure centre screens, bespoke British Sign Language (BSL) videos and a BSL interpreter service. The Council had been given a 94% accessibility rating. More info on accessibility can be found at <https://www.gov.uk/service-manual/helping-people-to-use-your-service/understanding-wcag>

Members received Lead Officer Responses from their previous scrutiny reviews into Residential Parking and Childhood Obesity, as well as monitoring the implementation of the CCTV in Taxis Policy.

3.3 Growth Scrutiny Committee

During the year the Committee met on seven occasions. The Committee reviewed the work of the Partnership Team in support of growth. The Assistant Director – Transformation and Communications outlined the Partnerships Team’s contribution to the growth agenda. The Committee heard about a number of programmes and initiatives including the LEADER programme which had now ended, and the Covid-19 Discretionary Grants Scheme, as well as supporting the delivery of the Clay Cross Town Deal projects and helping to put in place a package of initiatives to be supported from the UK Shared Prosperity Fund. Members also heard about the Team’s support of the Voluntary Sector and community groups, the Armed Forces Community, and other indirect growth activity.

The Director of Growth and Economic Development and the Housing Strategy and Growth Manager attended the Committee to discuss the implementation of the Growth Strategy. It was based around the economic recovery post Covid 19 and what could be done to support the District’s economy in the future. Members discussed the importance of the Strategy for delivering investment and jobs for residents in North East Derbyshire, especially the economic impacts of the Pandemic. It was aligned with the D2N2 Local Enterprise partnership priorities which included the Green Agenda, IT and Broadband. The hope was this would maximise funding opportunities. Key priority areas were skills, town centre regeneration, the visitor economy and business engagement and support. Town centre regeneration projects such as the One Public Estate reviews at Eckington and Killamarsh, the progress of the Clay Cross Town Board and the Investment plan were considered. A skills audit had also been sent to 1201 businesses and that a sector analysis was underway to analyse business need.

The Committee also considered an update on apprenticeships from the HR & OD Manager which provided them with an overview of apprenticeships at the Council. Members were informed about how apprenticeships had been used since the apprenticeship levy was introduced in 2017, and also the experiences of staff who had joined the Authority as an apprentice.

The Committee received a briefing from the Joint Housing Strategy and Intelligence Officer on the Council’s Housing Strategy 2021-24. Members heard how the Strategy set out the Council’s three key strategic housing priorities:

- Increasing housing growth and promoting home ownership;
- Improve existing housing; and
- Protect the most vulnerable in our communities.

The Committee discussed the importance of schemes which promoted home ownership such as the First Homes Scheme and Right to Buy Scheme, and received a comprehensive overview of housing related statistics for the District including housing growth, prices and ownership demographics.

Members considered an update on the Clay Cross Town Deal and the Masterplan for Eckington and Killamarsh from the Assistant Director for Economic Development. The Clay Cross Town Deal was made up of 10 projects and £24.1 million had been made available by Government to support its delivery. Collectively, they were intended to help Clay Cross become a thriving, industrious and sustainable town with a focus on enterprise, skills and learning, innovation and low carbon technology. The Masterplan projects for Eckington and Killamarsh had been developed so that preferred masterplan options could be selected as a basis for public consultation.

The Committee also considered the lead officer action plan on a previous scrutiny review on Business Centres & industrial Units which was signed off as complete, as well as a number of one-off items including updates on the management of assets, in-house services, procurement arrangements, and Dronfield Development.

3.4 Organisation Scrutiny Committee

During the year the committee met on seven occasions. The Annual Report of Human Resources and Organisational Development was considered by the Committee. This report outlined a range of employee related issues during 2020/21 which covered areas of recruitment and selection, employee health and wellbeing, health and wellbeing initiatives, organisation development and apprenticeships. Enquiries were made about the number of employees currently working for the council compared to other District Councils, the number of resignations during the year and the disparities in staff turnover between different services. Sickness absence and the target set by the Council were also discussed. The impacts of the pandemic on HR was also discussed as well as how they had supported other Council departments. Members heard about the corporate learning and development programme and the implementation of a new E-recruit system. Later in the year, the Committee received a further update on apprenticeships and degrees and heard from a number of staff who were currently completing MBA's.

The Committee reviewed progress on the Transformation Programme. The Director of Transformation highlighted the main areas that had moved forward and additionally the impact of the Covid pandemic on the following transformation streams: service transformation, transforming finances, digital organisation, organisational transformation and environmental transformation. A discussion on savings targets and headline projects to deliver these were informative, and Members enquired about digital skills in light of the pandemic and ensuring that residents could continue to access digital services. The Committee thanked the staff for the work they had done in transforming the Council and recognised that

the programme had been pushed forward very quickly due to the impacts of the pandemic.

The Committee also received a presentation from the Managing Director at Rykneld Homes which outlined the new five year agreement between the Council and Rykneld. This included a new Business Plan, Performance Management Framework, and Governance arrangements. The Committee heard about the work being done including repairs and maintenance, housing management, and regeneration and development. Members praised the work that had been completed by the team at Rykneld Homes Ltd.

Members also considered proposed changes to Members IT provisions including support and cybersecurity, and heard about the Council's Whistleblowing Policy.

4 The Year Ahead 2022/23

After the appointment of members to the Scrutiny Committees at Council on 23 May 2022, work programmes for 2022/23 will be discussed and developed. Suggestions for Scrutiny review topics will be invited from stakeholders. These will be discussed at the first scrutiny meeting of the new municipal year to prioritise which subjects should be reviewed.

North East Derbyshire District Council

Council

12 September 2022

Appointments to Committees

Report of the Assistant Director of Governance and Monitoring Officer

Classification: This report is public

Report By: The Assistant Director of Governance and Monitoring Officer

Contact Officer: Interim Governance Manager: alan.maher@ne.derbyshire.gov.uk

PURPOSE / SUMMARY

- To make an amendment to the appointment of Members to the Council's Committees for the 2022/23 Municipal Year, which does not affect proportionality on the Council.
- To consider any amendments to the Committees for the 2022/23 Municipal Year that might have implications for the proportional allocation of places on the Council's committees.

RECOMMENDATIONS

1. That in line with the request of the Leader of the Labour Group, Councillor Kevin Gillott be appointed to serve on the Standards Committee for the remainder of the 2022-23 Municipal Year.
2. That Councillor Nigel Barker ceases to serve on the Standards Committee for the remainder of the 2022-23 Municipal Year.
3. That the Leaders of the Majority and other Groups determine at the meeting what changes to committee representation they wish to make.

Approved by the Leader of the Council

IMPLICATIONS

Finance and Risk: Yes ☐ No ☒

Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes ☐

No ☒

Details:

The Council is required to allocate seats to political groups in accordance with the Political Balance requirements of section 15 of the Local Government and Housing Act 1989.

On Behalf of the Solicitor to the Council

Staffing:

Yes ☐

No ☒

Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 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: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | No |
| Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In) | No |
| District Wards Significantly Affected | None |
| Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/> | Yes Details: |

| |
|-----------------------------------------------------------------------------------------------------------------------------|
| Links to Council Plan (NED) priorities, including Climate Change, Equalities, and Economics and Health implications. |
| N/A |

REPORT DETAILS

1 Background

- 1.1 In line with the provisions of the Constitution, the Council is required to:
- Decide the allocation of seats to political groups in accordance with the Political Balance rules;
 - Receive nominations of councillors to serve on each committee and outside body and make the associated appointments;
 - Make changes to these allocations, as necessary, to reflect alterations to the composition of the political groups.

2. Details of Proposal or Information

- 2.1 Appointments to the Council's Committees and Advisory Groups were made at Annual Council on 23 May 2022.

- 2.2 An election for the vacancy for the Pilsley and Morton Ward then took place in July 2022. The Labour Party candidate, Councillor K Gillott, was elected. The political composition of the Council did not change as a result of this election. The the seat had previously been held by a Labour Councillor (A Holmes). This was reflected in the allocation to the Labour Group made at Annual Council on 23 May 2022. The allocation to the Groups made at Annual Council is set out below:

| | Seats on Council | Proportionality |
|------------------------|------------------|-----------------|
| Conservative Group | 30 | 56.60% |
| Labour Group | 18 | 33.96% |
| Liberal Democrat Group | 3 | 5.66% |
| Independent Group | 2 | 3.77% |
| Total seats | 53 | 100.00% |

- 2.3 There are currently 95 places on the Council's various Committees which are allocated on a politically proportional basis. The allocation of places by Group made at Annual Council is set out below:

| | Places on Committees | Proportionality |
|------------------------|----------------------|-----------------|
| Conservative Group | 54 | 56.84% |
| Labour Group | 32 | 33.68% |
| Liberal Democrat Group | 6 | 6.31% |
| Independent Group | 3 | 3.15% |
| Total Places | 95 | 100.00% |

- 2.4 The Leader of the Labour Group, Councillor N Barker, has requested that Councillor K Gillott be appointed to serve on the Standards Committee for the remainder of the 2022-23 Municipal Year. He has also requested that he ceases to serve on that Committee for the remainder of the Municipal Year. This change to the Standards Committee membership would have no impact on the Council political proportionality of the Council as a whole, or that of the Committee.
- 2.5 Councillor M Potts has confirmed that she is no longer a member of the Majority (Conservative) Group on the Council. Councillor Potts has not joined another political group and has indicated that she will now serve as an independent Councillor.
- 2.6 Councillor Pott's decision has reduced the size of the Majority Group by 1.88%. However, it has not increased the size of any of the other Groups.
- 2.7 The new political composition of the Council is:

| | Seats on Council | Proportionality |
|------------------------|------------------|-----------------|
| Conservative Group | 29 | 54.71% |
| Labour Group | 18 | 33.96% |
| Liberal Democrat Group | 3 | 5.66% |
| Independent Group | 2 | 3.77% |
| Independent Member | 1 | 1.88% |
| Total seats | 53 | 100.00% |

2.8 Councillor Potts is not subject to the political proportionality rules of Section 15 of the Local Government and Housing Act 1989. This covers the allocation of places on Committees to political groups, as she is not affiliated to a political group. In line with the Council's Constitution, it is at the discretion of Council which Committees and Advisory Groups, subject to the proportionality rules, that she is appointed to serve on.

2.9 Councillor M Potts currently serves on the General Licensing Committee and Licensing and Gambling Acts Committee. There are two General Licensing Committee meetings and two Licensing and Gambling Act Committees scheduled for the remainder of the year. These will take place 11 October 2022 and 7 February 2023 for both Committees.

2.10 If Councillor Potts continues to serve on the Licensing Committees then that would, in effect reduce the number of seats allocated on a politically proportional basis on the Council as a whole from 95 to 93.

2.11 The allocation of places to the political groups would be as follows:

| | Places on Committees | Proportionality |
|---------------------------------|----------------------|-----------------|
| Conservative Group | 52 | 54.73% |
| Labour Group | 32 | 33.68% |
| Liberal Democrat Group | 6 | 6.31% |
| Independent Group | 3 | 3.15% |
| Places held by non-group Member | 2 | 2.10% |
| Total | 95 | 100% |

2.11. The new political composition and proportionality, along with the existing allocation of places on Committees made at Annual Council, is set out in Appendix 1.

- 2.13 The Majority Group has indicated that it will set out what changes it wishes to make to committee representation at the meeting.

3 Reasons for Recommendation

- 3.1 To enable the Labour Group representation on the Standards Committee to be altered, following the election of Councillor K Gillott to represent the Pilsley and Morton ward in July 2022.
- 3.2 To ensure political proportionality and an appropriate allocation of places across the Council's Committees is maintained

4 Alternative Options and Reasons for Rejection

- 4.1 None

DOCUMENT INFORMATION

| Appendix No | Title |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| 1 | Political Proportionality and Allocation of Places on Committees |
| | |
| | |
| 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 you must provide copies of the background papers) | |
| | |

| | Seats on Council | Proportionality |
|------------------------|------------------|-----------------|
| Total seats | 53 | 100.00% |
| Conservative Group | 29 | 54.717% |
| Labour Group | 18 | 33.962% |
| Liberal Democrat Group | 3 | 5.660% |
| Independent Group | 2 | 3.77% |
| Independent Member | 1 | 1.89% |

| | |
|------------------|----|
| Cab Members | 7 |
| Non-Exec Members | 46 |

| Ordinary Committees - 23.5.22 | Total seats on Committee | Conservative Group | | Labour Group | | Liberal Democrat Group | | Independent Group | | Independent | | Total seats allocated |
|------------------------------------|--------------------------|---------------------|-----------------|---------------------|-----------------|------------------------|-----------------|---------------------|-----------------|---------------------|-----------------|-----------------------|
| | | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | |
| Licensing Act Committee | 14 | 7.66 | 8 | 4.75 | 5 | 0.79 | 1 | 0.53 | 0 | 0.26 | 0 | 14 |
| Licensing General Committee | 14 | 7.66 | 8 | 4.75 | 5 | 0.79 | 1 | 0.53 | 0 | 0.15 | 0 | 14 |
| Planning Committee | 13 | 7.11 | 7 | 4.42 | 4 | 0.74 | 1 | 0.49 | 1 | 0.13 | 0 | 13 |
| Standards Committee | 9 | 4.92 | 5 | 3.06 | 3 | 0.51 | 1 | 0.34 | 0 | 0.09 | 0 | 9 |
| Total Seats on Ordinary Committees | 50 | 27.36 | 28 | 16.98 | 17 | 2.83 | 4 | 1.89 | 1 | 0.64 | 0 | 50 |

| Scrutiny Committees - 23.5.22 | Total seats on Committee | Conservative Group | | Labour Group | | Liberal Democrat Group | | Independent Group | | Independent | | Total seats allocated |
|-------------------------------------------------|--------------------------|---------------------|-----------------|---------------------|-----------------|------------------------|-----------------|---------------------|-----------------|---------------------|-----------------|-----------------------|
| | | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | |
| Audit & Corporate Governance Scrutiny Committee | 9 | 4.92 | 5 | 3.06 | 3 | 0.51 | 1 | 0.34 | 0 | 0.09 | 0 | 9 |
| Communities Scrutiny Committee | 9 | 4.92 | 5 | 3.06 | 3 | 0.51 | 1 | 0.34 | 0 | 0.09 | 0 | 9 |
| Growth Scrutiny Committee | 9 | 4.92 | 5 | 3.06 | 3 | 0.51 | 0 | 0.34 | 1 | 0.09 | 0 | 9 |
| Organisation Scrutiny Committee | 9 | 4.92 | 5 | 3.06 | 3 | 0.51 | 0 | 0.34 | 1 | 0.09 | 0 | 9 |

| Joint Committees* - 23.5.22 | Total seats on Committee | Conservative Group | | Labour Group | | Liberal Democrat Group | | Independent Group | | Independent | | Total seats allocated |
|------------------------------------|--------------------------|---------------------|-----------------|---------------------|-----------------|------------------------|-----------------|---------------------|-----------------|---------------------|-----------------|-----------------------|
| | | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | |
| Joint ICT | 3 | 1.64 | 2 | 1.02 | 1 | 0.17 | 0 | 0.11 | 0 | 0.04 | 0 | 3 |
| Joint Staff Consultative Committee | 3 | 1.64 | 2 | 1.02 | 1 | 0.17 | 0 | 0.11 | 0 | 0.04 | 0 | 3 |
| Joint Scrutiny Panel | 3 | 1.64 | 2 | 1.02 | 1 | 0.17 | 0 | 0.11 | 0 | 0.04 | 0 | 3 |

* Note – For political balance to apply, there must be at least three seats to be filled on joint committees (excl executive committees)

| Advisory/Working Groups *political balance rules don't apply | Total seats on Group | Conservative Group | | Labour Group | | Liberal Democrat Group | | Independent Group | | Vacancy | | Total seats allocated |
|-----------------------------------------------------------------|----------------------|---------------------|-----------------|---------------------|-----------------|------------------------|-----------------|---------------------|-----------------|---------------------|-----------------|-----------------------|
| | | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | Proportion of seats | Allocated Seats | |
| JCG | 3 | - | 3 | - | 0 | - | 0 | - | 0 | - | 0 | 3 |
| MDWG | 7 | 3.83 | 4 | 1.36 | 1 | 0.40 | 1 | 0.26 | 1 | 0.08 | 0 | 7 |
| LPSG | 8 | 4.38 | 5 | 1.70 | 2 | 0.45 | 0 | 0.30 | 1 | 0.09 | 0 | 8 |
| Total seats | 15 | 8.21 | 9 | 3.06 | 3 | 0.85 | 1 | 0.57 | 2 | 0.17 | 0 | 15 |

*Ind Group have the additional seat on LPSG

North East Derbyshire District Council

Council

12th September 2022

Local Offer for Children in Care and Care Leavers

Report of Councillor Alex Dale, Leader of the Council

Classification: This report is public

Report By: Lee Hickin – Managing Director

Contact Officer: Lee Hickin – Managing Director

PURPOSE / SUMMARY

To seek approval for an amendment to the existing 'Local Offer for Children in Care and Care Leavers'.

RECOMMENDATIONS

1. That Council approve the amendment set out at 2.1 of the report; to extend the council tax discount currently offered to Derbyshire care leavers to care leavers who are from other areas now living in the district.

Approved by the Portfolio Holder – Cllr Alex Dale, Leader of the Council

IMPLICATIONS

Finance and Risk: Yes ☒ No ☐

Details:

Section 13A of the Local Government and Finance Act 1992 allows local authorities to reduce council tax in addition to statutory discounts. There is a financial implication to awarding reliefs under Section 13A as the Council has to finance all such reliefs from its own funds. As this can only be introduced as a local council tax discount, the cost is not shared with other preceptors and all the cost falls to North East Derbyshire District Council. The Council have approved this element of the offer previously in January 2019. Our current policy does not provide for council tax discounts to care leavers from outside of Derbyshire who now live in Derbyshire however.

For 2019/20 we awarded discount on 3 accounts, for 2020/21 on 5 accounts, for 2021/22 on 6 accounts and on 5 accounts for 2022/23 so far. The number of those that have requested a discount but have been denied because they are care leavers

of another county, have been approximated at less than 3 per year since 2019. It is acknowledged however, that there may be some care leavers of other counties that have not approached the Council for the discount as they may already be aware that our 'Local Offer' would mean that the Council wouldn't currently award it.

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes ☒

No ☐

Details:

Section 2 of the Children & Social Care Act 2017 requires each local authority (including District Councils) to publish a Local Offer for its care leavers (18 – 25 years).

On Behalf of the Solicitor to the Council

Staffing:

Yes ☐

No ☒

Details:

There are no significant direct additional HR implications arising from the proposals.

On behalf of the Head of Paid Service

DECISION INFORMATION

| 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: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | No |
| Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In) | No |
| District Wards Significantly Affected | All |
| Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input checked="" type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/> | Yes |

Links to Council Plan priorities, including Climate Change, Equalities, and Economics and Health implications.

Council Plan Aim: Our Residents – Objective 4: Protecting the most vulnerable within our communities

REPORT DETAILS

1 Background

- 1.1 There are approximately 80,000 children in care in England at any one time with 950 children in care across Derbyshire as of June 2022.
- 1.2 Many of these children have had a very poor start in life often witnessing things many of us thankfully have never had to. At a time when playing, having fun and making friends should be helping to form the building blocks for their future selves, many of these children are being faced with unspeakable challenges, being removed from a place that should be their sanctuary and plunged into a life of uncertainty, worry and fear.
- 1.3 Recognising the challenges faced by those in care and also the challenges they might face when they leave care, in November 2019 NEDDC led on the District and Borough **Local Offer for Children in Care and Care Leavers** initiative that received universal support from all District and Borough Councils to establish, agree and sign up to;
 - A Council Tax discount scheme for Care Leavers
 - An 'Active Fostering' physical activity support programme for children in care, their foster families and those leaving care
 - A level of employment, skills, apprenticeships and work experience support
 - A review of accommodation and housing protocols with view to ensuring that they are fit for purpose and deliver positive outcomes for care leavers across the County
 - A Countywide (District and Borough focussed) ongoing marketing and promotion campaign and support aimed at actively supporting the promotion and recruitment of foster carers and supported lodgings, through the Council's many and varied communication channels, mediums and platforms
 - To work collaboratively with Derbyshire County Council, other District/Borough Councils and other partners and stakeholders across all sectors within the county, to develop a 'Derbyshire Care Leaver Covenant'
- 1.4 Following approval of the above, District Council colleagues have continued to work collaboratively with County Council 'Children in Care' colleagues with a view to implementing the commitment made and to also recognise any further opportunities to collaborate in the interests of those children in care and those leaving the care system – NEDDC are very much leading the way in regard to Districts and Boroughs.
- 1.5 Very recently, NEDDC have been approached by a care leaver from another county currently residing in North East Derbyshire District. The person has

been living in the district for a while and has built relationships and networks within, however because he is a Nottinghamshire care leaver the Council's discount scheme does not apply to him.

- 1.6 Since the adoption of the Local Offer, some other councils in Derbyshire have removed the 'Derbyshire' requirement offering the discount to any care leaver irrespective of where they originate from.

2. Details of Proposal or Information

- 2.1 The proposal is to amend the Council's current 'Local Offer' by extending the council tax discount offered to Derbyshire care leavers to care leavers who are from other areas now living in the district. The numbers affected are likely to be low and in relative financial terms 'insignificant' when it comes to the impact upon the collection fund. For 2019/20 NEDDC awarded discount on 3 accounts, for 2020/21 on 5 accounts, for 2021/22 on 6 accounts and on 5 accounts for 2022/23 so far. The number of those that have requested a discount but have been denied because they are care leavers of another county, have been approximated at less than 3 per year since 2019.

3 Reasons for Recommendation

- 3.1 When they leave care, many of these young people will face considerable disadvantage in their lives, compared to that of others. Whilst most young people will continue to rely upon their families well into early adulthood and beyond, young people leaving care often do so without the support of a loving family. For a care leaver there is a very high risk that without continued support and people to care about them, that they will never reach their potential.
- 3.2 Managing budgets can be challenging for most people on low incomes particularly so for vulnerable young people adjusting to living by themselves without the support of a family network. A 2015 report by *The Children's Society* (The Wolf at the Door – How Council Tax debt collection is harming children) suggests that care leavers are a particularly vulnerable group for Council Tax debt.
- 3.3 Whilst relatively financially 'insignificant' for our organisation, such a gesture/discount can make all the difference to a young care leaver. It is hoped that by extending our offer in this way, aligning to some other districts who have already taken this approach in Derbyshire and other counties, that eventually all councils will take up this position removing these barriers for care leavers across the board.

4 Alternative Options and Reasons for Rejection

- 4.1 The publication of a local offer is a requirement for the local authority so there is no option not to have an offer.

- 4.2 To leave the Local Offer unchanged is an option however the issue facing care leavers from outside the district coming to live in the district in relation to accessing the Council's council tax discount would remain.

DOCUMENT INFORMATION

| Appendix No | Title |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| | |
| | |
| | |
| 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 you must provide copies of the background papers) | |
| | |

North East Derbyshire District Council

Council

12th September 2022

Request for a Community Governance Review for Stonebroom

Report of the Assistant Director of Governance and Monitoring Officer

Classification: This report is public

Report By: Assistant Director of Governance and Monitoring Officer

Contact Officer: Sarah Sternberg sarah.sternberg@ne-derbyshire.gov.uk

PURPOSE / SUMMARY

A valid Petition has been received for a Community Governance Review by the District to determine whether or not Stonebroom should have a separate Parish Council.

RECOMMENDATIONS

1. That Members acknowledge receipt of the valid Petition for a Community Governance Review at Stonebroom and Shirland and Higham.
2. That Members consider and approve the terms of reference excluding the timetable for the Review in Appendix 2 to this report.
3. That Members delegate the formulation of the arrangements for the Community Governance Review (including the timetable) to the Managing director and Head of Paid Services in consultation with the Returning Officer/Electoral Registration Officer.

Approved by the Portfolio Holder – Cllr Mark Foster, Cabinet Member for Council Services

IMPLICATIONS

Finance and Risk: Yes ☒ No ☐

Details: There will be a cost to carrying out the review. This cost is yet to be determined and cannot be recovered from the Parish Council.

Should the Council establish 2 separate Councils following the review, the Reorganisation Order will need to include a figure for the budget requirement for the 2 Councils.

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes ☒

No ☐

Details:

As in the report.

On Behalf of the Solicitor to the Council

Staffing:

Yes ☒

No ☐

Details:

A number of areas of the Council will be involved in putting together and servicing the CGR including:

- Planning
- Communications
- Council Tax
- Governance
- Elections
- Finance
- Performance

On behalf of the Head of Paid Service

DECISION INFORMATION

| 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: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | No |
| Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In) | No |
| District Wards Significantly Affected | Yes – Shirland and Higham |
| Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/> | Yes Details: Raised with the Leader, Deputy Leader and Portfolio Holder. |

| Links to Council Plan (NED) priorities, including Climate Change, Equalities, and Economics and Health implications. |
|----------------------------------------------------------------------------------------------------------------------|
| None |

REPORT DETAILS

1 **Background** *(reasons for bringing the report)*

- 1.1 The Council has received a valid petition to carry out a Community Governance Review (CGR) under the Local Government and Public Involvement in Health Act 2007 (LG&PIHA 2007). This is in relation to a request that the District carry out a CGR and determine whether or not Stonebroom should be a separate Parish Council from Shirland and Higham. The petition had the required number of signatures – 187.
- 1.2 Under the legislation the District has to carry out the CGR. The legislation requires that the CGR is completed in a period of a year from presentation of the Petition. This was on the 16th June 2022. The review is to be carried out at the cost of the District Council. There is no provision for passing on the costs.
- 1.3 The Petition must set out at least one recommendation that the petitioners want the review to consider. In the case of this petition this is the establishment of a Parish Council for Stonebroom and Stonebroom being removed from Shirland

and Higham Parish Council's area. The letter and plan accompanying the Petition are at Appendix 1 to the Draft Terms of Reference in Appendix 2 to this report. The petitioners wish to have the CGR completed in time for the elections in May 2023.

- 1.4 The District is required to notify the County Council that a review is to be undertaken and of its terms of reference.
- 1.5 The District is required to draw up terms of reference and a timetable and to publish these once agreed – Section 81 LG&PIHA 2007. These are in Appendix 2 to this report. These are expected to set out clearly the matters on which a CGR is to focus. The terms of reference are for approval with the exception of the timetable which will be finalised by the Managing Director in accordance with the recommended delegation.
- 1.6 There are a number of matters which can be considered including:
 - The creation, merger or abolition of a parish
 - The name of a parish
 - The establishment of a separate parish council for an existing parish
 - Electoral arrangements for parishes including warding.
- 1.7 The electorate is 1477 for Stonebroom and under the guidance this means a new parish council must be created if a separate parish is established for Stonebroom.
- 1.8 It can be decided by the CGR that there should be no change and no new parish council. The electorate for the existing Shirland and Higham Parish Council is 4049.
- 1.9 The CGR is required under Section 93 LG&IPHA 2007 to ensure that community governance within the area under review will:
 - Be reflective of the identities and interest of the community in that area and
 - Be effective and convenient
- 1.10 The CGR is required in the guidance (at paragraph 53) to take into account of the following:
 - The impact of community governance arrangements on community cohesion and
 - The size population and boundaries of a local community or parish
- 1.11 There is a requirement to consult. Local Government electors for the area under review and any other person or body, including a local authority, who appears to have an interest in the review. This would include:
 - Local Electors for Stonebroom
 - Local electors for the rest of Shirland and Higham
 - Shirland and Higham Parish Council

- Local District and County Councillors
- Derbyshire County Council
- Other community groups identified.

The recommendations produced would have to reflect the results of this consultation.

- 1.12 The CGR recommendations will be published and the District will have to ensure steps are taken to inform interested parties of those recommendations and of the reasons for them. It is also expected that the minutes of meetings will be published too.
- 1.13 The guidance also recommends that a public awareness strategy is produced to include:
- Target audience
 - Objectives to promote wide opportunities for informed discussion and response
 - The resources to be used such as the Communications section, budget, press releases, leaflets, posters, local meetings etc.
 - The timetable or plan of delivery
 - Methods of monitoring, control and evaluation

2. Details of Proposal or Information

- 2.1 It is proposed that the Council establishes a small Member working group to carry out the review and report back to Council. The Members of the working group should not be local councillors or in any way connected with the Shirland and Higham and Stonebroom areas.
- 2.2 The number of Members appointed to the Working Group to ensure resilience is to be decided by the Managing Director under the recommended delegation.
- 2.3 In carrying out the CGR the District must comply with section 93 Local Government and Public Involvement in Health Act 2007. This section is shown at Appendix 1 to this report. This includes the requirement to have regard to the matters quoted above at paragraph 1.9 above as well as taking into account any other arrangements that are in place for the purposes of community representation or community engagement in respect of the area under review, must take into account representations received, publish its recommendations as soon as practicable and complete the review in 12 months.
- 2.4 In carrying out the CGR the District must have regard to the guidance issued by the Secretary of State and the Local Government Boundary Commission for England (LGBCE) and in making recommendations and giving effect to recommendations as well. The latest guidance is from 2010.

3 Reasons for Recommendation

3.1 The Council is required to carry out and complete a Community Governance Review within 12 months of receiving the Petition. These arrangements will ensure the review is carried out in accordance with the approved timetable.

3.2 In determining the potential timetable, dependent on the outcome of the review, consideration has been given to the possible alignment with the elections planned for May 2023. In doing so there are a number of dependent or contributory factors which are taken into account which impact to a lesser or greater extent upon this possibility, these include;

- The Revised Register of Electors is published on the 1 December each year – Ideally a CGR order implementing boundary changes such as the creation of a new parish council would need to be reflected when the revised register is published on this date. If this cannot be achieved the Electoral Registration Officer (ERO) may publish a revised register at any time provided that they give 14 calendar days' notice of their intention to do. The ERO has a statutory duty to notify and send the revised Register of Electors to a number of statutory bodies and organisations including political parties.
- The revised register must be published on any new boundaries by the deadline for the publication of the Notice of Election at the next ordinary elections. The Notice of Election for May 2023 District and Parish Elections will be published on or around 25 March 2023, this is the date when candidates will begin to submit their nomination papers for the Parish Elections therefore they will require the revised registers reflecting any changes from the CGR. Work however takes place before this date in 'lead in' terms including sending data files for poll cards.
- For the May 2023 elections, data files will be sent to our print suppliers for poll cards to be produced from our Electoral Management Software – this work will take place around 9 March 2023. In order to achieve print supplier deadlines, the Council would need to be updating the software system to reflect any changes and republishing the revised Register of Electors at the very latest mid-February. This would mean that the CGR/Order would need to go to Council in January 2023.
- All financial information including asset transfer would need to be understood prior to Reorganisation Order approval.
- CGR's must be completed within 12 months - professional advice is that CGR's often do take this long to complete, depending upon the level of complexity, the consultation period and the Council's decision making process. An attempt to complete the review and the final recommendations submitted to the Council meeting in January 2023, would mean completing the review in just over 4 months (from the Council meeting on 12 September 2022).

4 Alternative Options and Reasons for Rejection

- 4.1 The Council has a duty to carry out the Community Governance Review. However the Council could decide to do it in a different way.

DOCUMENT INFORMATION

| Appendix No | Title |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Appendix 1 | Section 93 of the Local Government and Involvement in Public Health Act 2007 |
| Appendix 2 | Draft Terms of Reference for the Community Governance Review. |
| | |
| | |
| 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 you must provide copies of the background papers) | |
| | |

93 Duties when undertaking a review

- (1) The principal council must comply with the duties in this section when undertaking a community governance review.
- (2) But, subject to those duties, it is for the principal council to decide how to undertake the review.
- (3) The principal council must consult the following—
 - (a) the local government electors for the area under review;
 - (b) any other person or body (including a local authority) which appears to the principal council to have an interest in the review.
- (4) The principal council must have regard to the need to secure that community governance within the area under review—
 - (a) reflects the identities and interests of the community in that area, and
 - (b) is effective and convenient.
- (5) In deciding what recommendations to make, the principal council must take into account any other arrangements (apart from those relating to parishes and their institutions)—
 - (a) that have already been made, or
 - (b) that could be made,for the purposes of community representation or community engagement in respect of the area under review.
- (6) The principal council must take into account any representations received in connection with the review.
- (7) As soon as practicable after making any recommendations, the principal council must—
 - (a) publish the recommendations; and
 - (b) take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of those recommendations.
- (8) The principal council must conclude the review within the period of 12 months starting with the day on which the council receives the community governance petition or community governance application.

Appendix 2

Draft Terms of Reference for the Community Governance Review of Stonebroom produced under Section 81 Local Government and Involvement in Public Health Act 2007.

Appendix 2 (v 3)

NORTH EAST DERBYSHIRE DISTRICT COUNCIL
COMMUNITY GOVERNANCE REVIEW OF SHIRLAND AND HIGHAM
TERMS OF REFERENCE

Introduction

North East Derbyshire is carrying out a Community Governance Review (CGR) in the Shirland and Higham Parish in accordance with Part 4, Chapter 3 of the Local Government and Public Involvement in Health Act 2007.

The Council has received a valid Petition from residents of Stonebroom requesting a CGR to consider a separate Parish for Stonebroom. This could remove Stonebroom from the Parish of Shirland and Higham, making 2 Parish Councils. The Petition contained 187 valid signatures from people indicating that they were electors of the Stonebroom area. The Council must therefore undertake a CGR in accordance with Section 83(2) of the Local Government and Involvement in Public Health Act 2007 (LGIPHA 2007) as amended.

The petition was accompanied by a map showing the area to be considered. These are attached at Appendix 1.

The Council is required to have regard to Guidance on Community Governance Reviews issued by the Secretary of State for Communities and Local Government in 2010. This guidance has and will be carefully considered during the CGR.

Section 81 of the Local Government and Public Involvement in Health Act 2007 requires the Council to publish its Terms of Reference in a CGR. These Terms of Reference will be published on the Council's website and that of Shirland and Higham Parish Council.

The matters the CGR is to consider are set out later in these Terms of Reference.

What is a Community Governance Review?

The Community Governance Review is the process used by the District Council to consider whether Shirland and Higham Parish Council should be replaced with 2 separate Parish Councils, one to cover Stonebroom, the other the remaining parts of Shirland and Higham.

There are a number of options with regards the outcome of the review depending on the results of the consultation. The CGR could recommend to Council that:

- a there should be no change to the existing arrangements
- b the existing parish should be replace with 2 separate parishes

c a parish council should be established for one or both of the new parishes and if so, the boundary, names and the electoral arrangements for each i.e. how many councillors on each and the election cycle

d an 'alternative style' for one or both of the areas should be established

Note - The Local Government and Public Involvement in Health Act 2007 enables a parish council to be alternatively styled as a "village council", "neighbourhood council" or "community council".

Under Section 93 of the Local Government and Public Involvement in Health Act 2007 a CGR has to ensure that community governance within the area under review will:

- Reflect the identities and interests of the community in that area, and
- Be effective and convenient

In accordance with the Secretary of State's 2010 guidance, a CGR has to take into account the following factors:

- The impact of community governance arrangements on community cohesion and
- The size populations and boundaries of a local community or parish

It must also take into account any existing arrangements such as community or residents associations or neighbourhood councils.

There are 2 stages to a CGR.

The first will gather opinions on whether Shirland and Higham Parish Council should be divided into 2 separate parishes, one for Shirland and Higham and one for Stonebroom.

The second will be the Council's recommendation on the way forward. The public will be able to comment on this.

Parish governance in our area

The Council believes that parish councils play an important role in terms of community empowerment at the local level. The government has also emphasised; "Ultimately, the recommendations made in a community governance review ought to bring about improved community engagement, better local democracy and result in more effective and convenient delivery of local services."

Who undertakes the CGR?

North East Derbyshire District Council is responsible for undertaking the CGR. The District has decided to set up a working party of councillors to carry out the CGR and report back to the Council. The decision on the CGR outcome will be taken by North East Derbyshire District Council at one of its meetings.

A full consultation exercise will form part of the CGR so that full account of the views of local people can be taken. The Act requires the Council to consult the local

government electors for the area under review and any other person or body who appears to have an interest in the CGR and to take the representations into account by judging them against the criteria in the legislation.

The consultation will include:

- The publication of a notice and these terms of reference on the Council's website and copies available for inspection at the Council's main offices.
- A copy of the Terms of Reference being sent to the Parish Clerk at Shirland and Higham Parish Council.
- Shirland and Higham Parish Council to be asked to display the terms of reference on their website and placed on their notice board if they have one.
- The Petitioner organisation be asked to display the Terms of Reference on their website and/or notice board (if they have one).
- Sending a copy to the relevant County Councillors
- Sending a copy to the Member of Parliament for the area.

Before making any recommendations, we will take account of any representations received. The Council will publish recommendations as soon as practicable and take such steps as it considers sufficient to ensure that persons who may be interested in the CGR are informed of the recommendations and the reasons behind them.

The Council will notify each consultee and any other persons or bodies who have made written representations of the outcome of the Review.

The Council has notified Derbyshire County Council that a CGR is to be undertaken and that these are the terms of reference for the CGR.

How to contact us

You can submit your views online at www.xxxxxxxxxxxx or by writing to

YYY Officer
North East Derbyshire District Council
2012 Mill Lane
Wingerworth
Chesterfield
Derbyshire
S42 6NG

A timetable for the Review

| Stage | What happens | Timescales | Date |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------|
| Commencement | A Community Governance Petition received | | |
| Preparation | The Petition is validated; desk research and information gathering; local briefings and meetings; Terms of References for the review are prepared and approved. | | |
| | Terms of References for the review are published | | |
| Stage One | Initial Submissions are invited | | |
| Stage Two | Consideration of submissions received – Draft recommendations are prepared. | | |
| Stage 3 | Draft recommendations are published – consultations on the draft recommendations is carried out. | | |
| Stage 4 | Consideration of submissions received – final recommendations are prepared | | |
| | Final recommendations are published – concluding the review | | |
| | Council resolves to make a | 1 month later | |

| | | | |
|--|------------------------------------------------------------|--|--|
| | Reorganisation Order | | |
| | If required, an Organisation of Community Governance Order | | |

What area is being reviewed?

The area being reviewed is the area on which the petition was based. This is Stonebroom in Shirland and Higham Parish Council area. This is shown on the map attached which was submitted with the petition.

In proposing any parish arrangements for this area, the Council is not bound by the area referred to in the petition or shown on the map accompanying the petition.

As part of the CGR the Council has to provide the number of electors in the area. If the Council recommends that a parish council should be set up, this information will be used to decide on the electoral arrangements, e.g. how many councillors on each parish council.

The Council has used the current Register of Electors in providing the existing electorate figures. These are:

| | Current number of electors |
|------------------------------------------|----------------------------|
| Stonebroom | 1477 |
| Shirland and Higham (without Stonebroom) | 2572 |

Will there be any additional costs to residents of the area?

It is recognised that there are potential additional costs associated with the establishment of a parish council. The level and detail of these costs are something that would be determined by each parish council at the time a decision was made on the establishment. It will be the responsibility of each parish council to determine the nature and level of its costs which will be linked to its activities and the level of support required to deliver these e.g. associated salaries, premises and any assets that might be transferred.

Reorganisation of Community Governance Orders and commencement

The CGR will be completed when the Council adopts the Reorganisation of Community Governance Order (the Order). Copies of this Order, the map that shows the effects of the Order in detail and the documents which set out the reasons for the decisions that the Council has taken (including where it has decided to make no change following a CGR) are deposited at the Council's Offices, on the Council's website and at any contact points.

In accordance with the Guidance issued by government, the Council will issue maps to illustrate each recommendation at a scale that will not normally be smaller than 1:10,000. These maps will be deposited with the Secretary of State at the Department for Levelling Up, Housing and Communities and at the Council's Offices at Mill Lane. Prints will also be supplied, in accordance with regulations to Ordnance Survey, the Registrar General, the Land Registry, the Valuation Office Agency, the Boundary Commission for England and the Local Government Boundary Commission for England.

An indication of when the provisions of the Order would take effect should be given. For financial and administrative purposes this will be on 1st April in the designated year.

The electoral arrangements for a new or existing parish council will come into force at the next elections to the parish council. These might be the next ordinary elections. However, where the next ordinary elections are not for some time, the Council might resolve to modify or exclude the application of Sections 16(3) and 90 of the Local Government Act 1972 to provide for the first election to be held in an earlier year, with councillors serving a shortened first term to allow the parish electoral cycle to return to that of the District.

Consequential Matters

General principles

The Council notes that an Order may cover any consequential matters that appear to the Council to be necessary or proper to give effect to the Order. These may include:

- The transfer and management or custody of property;
- The setting of precepts for new parishes;
- Provision with respect to the transfer of any functions, property, rights and liabilities;
- Provision for the transfer of staff, compensation for loss of office, pensions and other staffing matters.

In these matters the Council will be guided by Regulations that have been issued following the LGIPHA 2007. In particular the Council notes that the Regulations regarding the transfer of property, rights and liabilities require that any apportionments shall use the population of the area as estimated by the proper officer of the Council as an appropriate proportion.

Furthermore the Council notes the Regulations regarding the establishment of a precept for a new parish and their requirements.

District Ward and County Electoral Division boundaries

The Council is mindful that it may be necessary for it to recommend to the Local Government Boundary Commission to make alterations to the boundaries of wards of the District or Electoral Divisions of the County Council to reflect the changes made at parish level. The Council notes that it will be for the Local

Government Boundary Commission to decide if related alterations should be made and when they should be implemented and that the Commission may find it appropriate to conduct an electoral review of affected areas.

The council notes that the Local Government Boundary Commission will require evidence that the Council has consulted on any such recommendations for alterations to the boundaries of District Wards or County Electoral Divisions as part of the review. Of course, such recommendations for alterations may only become apparent during the course of the review. Even so, the Council will endeavour to include any such draft recommendations for alterations at the earliest possible opportunity for consideration that will arise after they become apparent.

Where any such consequential matters affect the Derbyshire County Council, the Council will also seek the views of that Council with regards to alterations to Electoral Division boundaries in accordance with the government's guidance

Date of publication of these Terms of Reference

13th September 2022

Matters to be considered as part of the terms of reference

Appendix 1

Letter and map accompanying Petition.

North East Derbyshire District Council

Council

12 September 2022

ADOPTION OF THE REVISED TAXI LICENSING POLICIES

Report of Councillor M Foster, Portfolio Holder for Council Services

Classification: This report is Public

Report By: Charmaine Terry, Environmental Health Team Manager
(Licensing), 01246 217228, charmaine.terry@ne-derbyshire.gov.uk

Contact Officer: Charmaine Terry, Environmental Health Team Manager
(Licensing), 01246 217228, charmaine.terry@ne-derbyshire.gov.uk

PURPOSE / SUMMARY

To invite Council to adopt the revised draft Taxi Licensing Policies.

RECOMMENDATIONS

1. That Council approve the recommendation from the General Licensing Committee that the final draft Taxi Licensing policies be adopted and to take effect on 13th September 2022.

Approved by the Portfolio Holder – Cllr Foster
(Delete completely for Scrutiny Reports)

IMPLICATIONS

Finance and Risk: Yes ☒ No ☐

Details:

There will be a minor cost associated with the implementation of the policies. This can be accommodated from existing Environmental Health Service budgets. Public safety is a paramount consideration of the Council when undertaking its statutory functions in respect of taxi licensing. Failure to implement any changes in line with statutory guidance could leave the Council open to scrutiny.

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes ☒

No ☐

Details:

The Council has a statutory obligation to have regard to the Statutory Taxi & Private Hire Vehicle Standards. Having a policy which is clear, fit for purpose and meets statutory guidelines will assist the Council in implementing rules, whilst preventing a legal challenge by way of judicial review, and as such, any associated legal costs.

On Behalf of the Solicitor to the Council

Staffing: **Yes** ☐

No ☒

Details:

There are no staffing implications for this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

| 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: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | No |
| Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In) | No |
| District Wards Significantly Affected | None |
| Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Cabinet <input checked="" type="checkbox"/> SMT <input checked="" type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input checked="" type="checkbox"/> Public <input checked="" type="checkbox"/> Other <input checked="" type="checkbox"/> | Yes Details: Public, member and other stakeholder consultation |

| |
|------------------------------------------------------------------------------------------------------------------|
| Links to Council priorities, including Climate Change, Equalities, and Economics and Health implications. |
|------------------------------------------------------------------------------------------------------------------|

| |
|-----|
| All |
|-----|

REPORT DETAILS

1 **Background** *(reasons for bringing the report)*

- 1.1 The Council has a responsibility for licensing Hackney Carriages and Private Hire vehicles, drivers and operators within the district of North East Derbyshire. The service is operated by the Joint Environmental Health Service across the Strategic Alliance with Bolsover District Council. The current policies on these functions were published in 2018 and were due a periodic review in September 2021.
- 1.2 The Joint Environmental Health Service has conducted an initial review focussed on the experience of implementing the new policies following their introduction in 2018 and routine feedback to officers from the trade, partners and the public during the licensing processes and changes to legal requirements and best practice in the intervening period.
- 1.3 Following consideration of a draft policy through the General Licensing Committee, a nine-week public consultation opened between 20 September 2021 and 22 November 2021. The Consultation was carried out through the Ask Derbyshire website, publicised via the Council's website and social media platforms as well as by contacting a range of stakeholders directly.
- 1.4 A full evaluation of the responses was carried out and this, together with copies of the consultation responses and the subsequently amended policy, were considered by the General Licensing Committee on 16 December 2021.
- 1.5 The Committee noted the low level of response to the consultation and that the changes to the policies were largely to bring them in line with the new Statutory Guidance issued by the Department for Transport.

2. **Details of Proposal or Information**

- 2.1 The revised taxi licensing policies have been drafted in line with the Department for Transport's *Taxi and private hire vehicle licensing: best practice guidance* and *Statutory taxi and private hire vehicle standards*.
- 2.2 Following the public consultation and member scrutiny, a recommendation has been made to Council that the final draft policies, agreed by the General Licensing Committee on 16 December 2021, be adopted. The final draft policies can be found attached as Appendices 1, 2, 3, 4 and 5.

3 **Reasons for Recommendation**

- 3.1 The periodic review of the Council's taxi licensing policies has identified essential amendments to ensure they are consistent with statutory guidance, and to make minor amendments to update the documents to reflect work practices and best practice.

4 Alternative Options and Reasons for Rejection

- 4.1 The existing policies could be extended without amendment. However, this would prevent vital amendments to the policy being implemented to ensure the Council is compliant with changes in legislation and guidance. This would also not be consistent with the Council's approach to policy review.

DOCUMENT INFORMATION

| Appendix No | Title |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 1 | Taxi Licensing Policy: Hackney Carriage/Private Hire Vehicle Drivers (Draft) |
| 2 | Taxi Licensing Policy: Hackney Carriage and Private Hire Vehicles (Draft) |
| 3 | Taxi Licensing Policy: Private Hire Operators (Draft) |
| 4 | Taxi Licensing Policy: Enforcement (Draft) |
| 5 | Taxi Licensing Policy: Equality Act (Draft) |
| 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 you must provide copies of the background papers) | |
| | |



North East
Derbyshire
District Council

Taxi Licensing Policy: **Hackney Carriage & Private Hire** **Drivers**

September 2022

We speak your language

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

Hablamos su idioma

Slovak

Rozprávame Vaším jazykom

Chinese

我们会说你的语言

If you require this publication
in **large print**

or another format please call:

Bolsover District Council on

01246 242424 or

North East Derbyshire District

Council on **01246 231111**

**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 | Final Draft |
| Policy author | Solicitor/Environmental Health Team Manager |
| Location of policy - i.e. L-drive, shared drive | S Drive |
| Member route for approval | Licensing Committee |
| Cabinet Member (if applicable) | N/A |
| Equality Impact Assessment approval date | 21.8.18 |
| Partnership involvement (if applicable) | N/A |
| Final policy approval route i.e. Executive/ Council /Planning Committee | Council |
| Date policy approved | |
| Date policy due for review (maximum three years) | |
| 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 STATUTORY, BEST PRACTICE AND INDUSTRY GUIDANCE

The Department for Transport has considered views about what constitutes “Best or Good Practice” and how licensing authorities can protect children and vulnerable adults, and has published both [best practice](#) (March 2010) and [statutory guidance](#) (July 2020).

In addition, the Institute of Licensing (Guidance on determining the suitability of applicants and licensees in – hackney and private hire trades), the Local Government Association and other bodies also produce guidance relating to taxi and private hire standards.

These documents have 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.

1.7 POLICY REVIEWS

This policy will be kept under constant review and may be updated periodically. Minor alterations to the policy may be approved and implemented in consultation with the Chair of the Licensing Committee.

The Policy will normally be reviewed every three years.

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 protection of children and vulnerable adults;
- 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

Knowledge Test

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, all new applicants will be required to pass a Council approved Knowledge Test. 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 usually be refunded where a test booking is cancelled with less than 48 hours' notice.

Applicants who fail three or more theory tests in a 12-month period, will not normally be considered to be a fit and proper person.

Safeguarding

It is important that all licence holders have knowledge of safeguarding matters and how to report concerns.

Applicants will be required to attend Council approved training in respect of safeguarding prior to being first licenced and then every three years thereafter.

Disability Awareness

It is important that all licence holders have a level of awareness in relation to disabilities and the safe transportation of disabled passengers.

Applicants will be required to attend Council approved training in respect of disability awareness prior to being first licenced and then every three years thereafter.

Applicants will also be required to undertake a Council approved assessment in respect of the safe loading and transportation of passengers.

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, at their own cost, 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 Committee.

4.5 MEDICAL EXAMINATION

A medical examination by the applicants General Practitioner (or other Council approved 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.

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

DBS Disclosures

An enhanced criminal record check on a driver is an essential safety measure, particularly for the protection of children and vulnerable adults.

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) enhanced certificate, to the appropriate standard, which includes a check of the barred lists.

Applicants must apply for the DBS check through the Council or via a nominated organisation and will be charged an appropriate fee. When the applicant for a DBS Disclosure receives the disclosure certificate 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. Proof that the applicant has signed up for the update service will be required before a licence is granted. The applicant will, as part of their application, authorise the Council to carry out status checks using the Service at intervals of no more than six months. Licence holders will be required to maintain the Service at all times while licensed. If the update service lapses the licence holder will be required to apply for a new DBS Disclosure and to 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.

Overseas Applicants & Those Who Have Lived Abroad

DBS certificates do not include foreign offences. Therefore, any foreign national or applicant who has lived abroad for 3 continuous months or more will be required to produce a document from the relevant Government or Embassy of the country where they resided, which provides a comprehensive criminal record.

All costs in respect of this documentation will be borne by the applicant. This document is in addition to the DBS certificate. And must provide contact details of the Government or Embassy in order that officers can verify its authenticity. Certificates of good conduct must be in English or translated at the Applicant's expense. Any translation must be certified as accurate.

In circumstances where the applicant is unable to provide such a document, or officers have concerns that an individual's record requires closer scrutiny, other methods of verifying an Applicant's history may be required. The application will normally be referred to the Licensing Committee for determination, where the applicant will be given the opportunity to explain his or her circumstances and produce any other relevant documentation in support of the application. However, the starting position in cases where a certificate of good conduct cannot be provided is that the application should be refused unless there are exceptional reasons that would allow the committee to depart from policy.

Other matters of interest

Applicants and licence holders will be required to notify the council of within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. Also failure to disclose an arrest, irrespective of the final outcome, will be treated as a serious breach of condition and will call into question the behaviour and honesty of the person.

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

Confidentiality

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 and arrests 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 that the applicant is clearly fit and proper, they shall refer the application to Licensing Committee for determination.

Where drivers have been licensed prior to the adoption of this policy, and they no longer meet the revised fitness standards, their fitness to hold a licence will be reassessed against the 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 Committee for consideration.

4.8 APPLICATION PROCEDURE

An application for a hackney carriage or private hire driver's licence must be made electronically via the Council's website and be accompanied by all necessary supporting documentation. The application shall not be considered complete until all required information has been submitted and the appropriate fee paid.

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 supporting 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 Committee may extend this period in exceptional circumstances.

Applications for renewal must be submitted electronically via the Council's website and sufficiently far in advance of the expiry of the previous

licence. It is recommended that applications for renewal are submitted no less than 3 months prior to the current badge expiry date.

NB: The Council will endeavour to issue a renewal reminder at least three months prior to the expiry of the licence. However, if no renewal letter is received, **IT IS THE DRIVER'S RESPONSIBILITY TO BE AWARE OF THE DATE OF EXPIRY OF HIS LICENCE** and to apply to renew the licence in a timely manner.

The Authority offers no guarantee that a driver licence renewal letter will be received by licence holders and accepts no responsibility where this occurs.

As a professional driver it is the responsibility of the applicant to ensure all applications are submitted in time together 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 prior to the submission of a renewal application the applicant will have to make an application for a new licence, not a renewal, and will have to complete the normal tests and checks required for new applicants. Late applications may only be accepted in exceptional circumstances, and satisfactory 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. The conditions will form part of all combined and private hire vehicle driver's licences.

4.11 ARRESTS AND CONVICTIONS

Where offences may have been committed, leading to arrest, conviction or caution, by licensed drivers or applicants for licences, 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 arrested, convicted or cautioned for any offence, including fixed penalties, must disclose the arrest/conviction/caution and the penalty involved, if any, to the Council within 72 hours.

4.12 NATIONAL REGISTER OF REVOCATIONS & REFUSALS

Any decision to refuse an application for a licence, or to revoke a licence that has been granted, will be submitted for inclusion in the National Register of Taxi Licence Revocations and Refusals where the information will be kept for a period of 25 years.

4.13 REVIEW OF CURRENT LICENCES ISSUED

Where a significant policy review takes place which introduces new standards which could have an impact on public safety, the licensing authority may review existing licences with a view to revoking licences where the licence holder no longer meets the required standards set out in the revised policy or may suspend a licence while the licence holder proves they meet the required standard (this may include undertaking additional training).

Each case will be dealt with on its own merits.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion of, 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 made 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 D follow.

APPENDIX A
THE CONSIDERATION OF APPLICATIONS

1. Upon receipt of a properly made electronic application, 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 will 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 Committee meeting the Council's hearing procedure will be followed. The applicant will be offered the opportunity to address the committee and 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, arrests, 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 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. Enquiries will be made of the National Register of Taxi Licence Revocations and Refusals.

2. OFFENCES

The following guidance applies to new applicants, those cases where a licence holder is convicted during the period of their current licence and for all drivers when they renew their licences.

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
- Actual bodily harm which is racially aggravated
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Threats to kill
- Resisting arrest
- Hate crime* against a person (including all forms of assault)
- 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:

- Hate crime* against property

*Hate crime in the above sections is defined as offences where an aggravating feature is that the offence was motivated by any qualifying characteristic pursuant to the Equalities Act 2010.

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 unless 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 for an offence of a violent nature.

NB All violent offences will be treated in accordance with the above guidance and will not be considered any differently because they occur in the context of domestic violence or abuse.

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, Disclosure and Barring Service Barred Lists 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 a 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 a 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.

A licence will not normally be granted to an applicant where they have more than one conviction for a drug related offence.

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

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 will normally merit refusal.

In addition, applicants will normally be required to show a period of at least 10 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 occurred within the last 2 years 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 existing licence holder is convicted of a major traffic offence, irrespective of whether or not they are 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 normally a minimum suspension of 6 months 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 passengers, other road users and the public.
- 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 suspect or know of any medical condition which may affect their driving ability and the health and safety of themselves and/or others. The driver must notify 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 arrest, 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. Where possible any property found should be returned to the owner (at no cost to the person who has lost the property). If this is not possible, it must be taken as soon as possible (and in any event within 24 hours) to the driver's Private Hire Operator or their Hackney Carriage Proprietor.

6. ACCIDENT REPORTING

- 6.1 A driver shall report to the Council, within 72 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 or mental 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 and before use to ensure the following, as a minimum, are in legal working order:
- Lights
 - Tyres/wheels
 - Wipers
 - Fluid levels
 - Brakes

- Handbrake
- Wheelchair equipment (on wheelchair accessible vehicles)

The check should be recorded in writing, including details of any defects and remedial action taken.

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 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
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
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)



North East
Derbyshire
District Council

Taxi Licensing Policy: **Hackney Carriages & Private Hire** **Vehicles**

September 2022

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**CONTROL SHEET FOR TAXI LICENSING POLICY: HACKNEY CARRIAGES & PRIVATE
HIRE VEHICLES**

| Policy Details | Comments / Confirmation (To be updated as the document progresses) |
|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Policy title | Taxi Licensing Policy: Hackney Carriages & Private Hire Vehicles |
| Current status - i.e. first draft, version 2 or final version | Final Draft |
| Policy author | Solicitor/Environmental Health Team Manager |
| Location of policy - i.e. L-drive, shared drive | S Drive |
| Member route for approval | Licensing Committee |
| Cabinet Member (if applicable) | N/A |
| Equality Impact Assessment approval date | 21.8.18 |
| Partnership involvement (if applicable) | N/A |
| Final policy approval route i.e. Executive/ Council /Planning Committee | Council |
| Date policy approved | |
| Date policy due for review (maximum three years) | |
| 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 has considered views about what constitutes "Best or Good Practice" and how licensing authorities can protect children and vulnerable adults, and has published both [best practice](#) (March 2010) and [statutory guidance](#) (July 2020).

In addition, the Institute of Licensing (Guidance on determining the suitability of applicants and licensees in – hackney and private hire trades), the Local Government Association and other bodies also produce guidance relating to taxi and private hire standards.

These documents have 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.

1.7 POLICY REVIEWS

This policy will be kept under constant review and may be updated periodically. Minor alterations to the policy may be approved and implemented in consultation with the Chair of the Licensing Committee.

The Policy will normally be reviewed every three years.

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 protection of children and vulnerable adults;
- 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 does 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

All vehicles are required to comply with the requirements set out in the Taxi Licensing Policy: Hackney Carriages & Private Hire Vehicles (CCTV Supplement).

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.

4.1.8 CRIMINAL RECORD CHECKS & SAFEGUARDING

Before an application for a private hire vehicle licence will be considered, the proprietor 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 proprietors 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. Where there is a change of director, partner or person with day to day control any incoming person will also need to provide the information.

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.

No specific guidance exists relating to how convictions should be considered in relation to vehicle proprietors. The relevance of convictions to drivers will be used as a starting point, but it is acknowledged that the risks relating to vehicle proprietors is different. Accordingly the starting point will be for officers and members to ask:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he / she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he / she would maintain it to an acceptable standard throughout the period of the licence?”

Overseas Applicants & Those Who Have Lived Abroad

DBS certificates do not include foreign offences. Therefore, any foreign national or applicant who has lived abroad for 6 continuous months or more will be required to produce a document from the relevant Government or Embassy of the country where they resided, which provides a comprehensive criminal record.

All costs in respect of this documentation will be borne by the applicant. This document is in addition to the DBS certificate. And must provide contact details of the Government or Embassy in order that officers can verify its authenticity. Certificates of good conduct must be in English or translated at the Applicant's expense. Any translation must be certified as accurate.

In circumstances where the applicant is unable to provide such a document, or officers have concerns that an individual's record requires closer scrutiny, other methods of verifying an Applicant's history may be required. The application will normally be referred to the Licensing Committee for determination, where the applicant will be given the opportunity to explain his or her circumstances and produce any other relevant documentation in support of the application. However, the starting position in cases where a certificate of good conduct cannot be provided is that the application should be refused unless there are exceptional reasons that would allow the committee to depart from policy.

4.1.9 INSURANCE WRITE OFFS

Vehicles which have been written off for insurance purposes will not be licensed unless they meet the following criteria:

- The vehicle is a Category N insurance write-off
- A vehicle identity check is produced
- A full list of the damage sustained and the repairs carried out to the vehicle is produced
- The vehicle meets all other requirements set out in this policy

Any vehicle which has been written off for insurance purposes on more than one occasion will not be licensed.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion of, 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.
- 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.

All new Hackney Carriage vehicles must be a wheelchair-accessible vehicle.

Any Hackney Carriage vehicle which is not a wheelchair-accessible vehicle and is currently licensed by the Council will cease to be renewed after their first renewal falls due in 2024.

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 permanently 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;
- A small identification sticker must be visible on the rear vehicle registration plate;
- 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 will be required to be painted white with the exception of the bonnet and boot/tailgate which shall be black.

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 licensed vehicle they shall make a copy of that person's Hackney Carriage/Private Hire Vehicle Driver's licence. The copy licence must be kept for at least 6 months after the driver ceases to be permitted to drive the vehicle, along with a record of the dates the driver was permitted to drive the 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 and legally 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 manufacturer-approved, 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.
- The vehicle should be equipped with any manufacturer's user manual/guide on the safe transportation of passengers.
- 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 be insured for the relevant use (private and/or or public hire) at all times whilst licensed. Private Hire Vehicles must not be insured for public hire unless they are insured as part of a fleet policy.

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 until the appropriate insurance has been obtained or the licence ceases to be in effect.

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, before the vehicle is used, that the following, as a minimum, are in legal working order:

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

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

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.

33. CHANGE OF PERSONS IN CONTROL

The proprietor shall notify the Council immediately upon any change of director, partner or person in day to day control of the business. Any incoming persons will be required to provide a suitable DBS check and any other information requested.



**North East
Derbyshire**
District Council

Taxi Licensing Policy: Private Hire Operators

September 2022

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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 | Final Draft |
| Policy author | Solicitor/Environmental Health Team Manager |
| Location of policy - i.e. L-drive, shared drive | S Drive |
| Member route for approval | Licensing Committee |
| Cabinet Member (if applicable) | N/A |
| Equality Impact Assessment approval date | 21.8.18 |
| Partnership involvement (if applicable) | N/A |
| Final policy approval route i.e. Executive/ Council /Planning Committee | Council |
| Date policy approved | |
| Date policy due for review (maximum three years) | |
| 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 has considered views about what constitutes "Best or Good Practice" and how licensing authorities can protect children and vulnerable adults, and has published both [best practice](#) (March 2010) and [statutory guidance](#) (July 2020).

In addition, the Institute of Licensing (Guidance on determining the suitability of applicants and licensees in – hackney and private hire trades), the Local Government Association and other bodies also produce guidance relating to taxi and private hire standards.

These documents have 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
- 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.

1.7 POLICY REVIEWS

This policy will be kept under constant review and may be updated periodically. Minor alterations to the policy may be approved and implemented in consultation with the Chair of the Licensing Committee.

The Policy will normally be reviewed every three years.

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 protection of children and vulnerable adults;
- 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.

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. Where there is a change of director, partner or person with day to day control any incoming person will also need to provide the information.

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.

Overseas Applicants & Those Who Have Lived Abroad

DBS certificates do not include foreign offences. Therefore, any foreign national or applicant who has lived abroad for 6 continuous months or more will be required to produce a document from the relevant Government or Embassy of the country where they resided, which provides a comprehensive criminal record.

All costs in respect of this documentation will be borne by the applicant. This document is in addition to the DBS certificate. And must provide contact details of the Government or Embassy in order that officers can verify its authenticity. Certificates of good conduct must be in English or translated at the Applicant's expense. Any translation must be certified as accurate.

In circumstances where the applicant is unable to provide such a document, or officers have concerns that an individual's record requires closer scrutiny, other methods of verifying an Applicant's history may be required. The application will normally be referred to the Licensing Committee for determination, where the applicant will be given the opportunity to explain his or her circumstances and produce any other relevant documentation in support of the application. However, the starting position in cases where a certificate of good conduct cannot be provided is that the application should be refused unless there are exceptional reasons that would allow the committee to depart from policy.

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 a 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 of, 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 vehicles parked outside the operating address are parked in accordance with any restrictions and are not causing a nuisance to others.
- 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 clean, presentable, 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 name of the driver whom was allocated to the booking
- the licence number of the driver whom was allocated to the booking
- 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

2.4 LOST PROPERTY

The operator shall accept all lost property presented to them by a driver who is undertaking bookings on their behalf.

The Operator shall record the following:

- The date and time they received the lost property
- A description of the lost property
- The name and call sign of the driver handing in the property
- The specific journey when the property was left in the vehicle
- The date the item was reclaimed and by who

The operator shall take all reasonable steps to reunite the lost property with its owner. If the lost property is a Passport, Driver Licence, Bank Card or other similar item the operator shall contact the issuer and either return the item to the issuer or follow any actions specified by them.

While the lost property is in the possession of the operator it shall be stored securely. The lost property shall be retained for a period of six months, if it is not reclaimed in that period and does not contain any personal information the operator shall dispose of the lost property. Any items which may contain personal information or images (including mobile phones) shall be destroyed and a record kept of that fact.

3. COMPLAINTS & INFORMATION

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 immediately inform the Council of any complaints received of a serious nature, including (but not limited to) safeguarding, discrimination, dishonesty, violence, public safety, alcohol, drugs, indecency, medical conditions etc.

The operator shall also notify the Council of any other information received about a driver relating to serious matters of conduct, no matter how they come by that information.

Serious complaints and information must be passed to the Council whether the operator believes them to be true or not.

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 and/or employee has received safeguarding training and must maintain a record of such training.

Operators shall ensure that every driver and/or employee 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.

11. PROVISION OF INFORMATION

Where requested to do so by an Authorised Officer of the Council the private hire operator (or a Director of a company where the Ltd company is the licensed operator) or his representative will provide a criminal record check or other information, at his own expense, so as to enable the Council to assess if the operator remains 'fit and proper' to hold a licence with the authority.

12. CHANGE OF PERSONS IN CONTROL

The operator shall notify the Council immediately upon any change of director, partner or person in day to day control of the business. Any incoming persons will be required to provide a suitable DBS check and any other information requested

13. EMPLOYEE RECORDS

Operators shall maintain:

- A register of all staff involved in the dispatching of vehicles with evidence that those staff have provided a basic DBS check to the operator. Records should be kept up to date and for a period of at least 6 months.
- A policy relating to the employment of ex-offenders.

14. USE OF OTHER TYPES OF PASSENGER CARRYING VEHICLES

Where a taxi is not suitable to complete a booking and a larger vehicle is required the booker should be informed by the operator that a PCV (minibus) is necessary and that the driver is subject to different checks and has not completed an enhanced DBS check.



**North East
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District Council

Taxi Licensing Policy: **Enforcement**

September 2022

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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 | Final Draft |
| Policy author | Solicitor/Environmental Health Team Manager |
| Location of policy - i.e. L-drive, shared drive | S Drive |
| Member route for approval | Licensing Committee |
| Cabinet Member (if applicable) | N/A |
| Equality Impact Assessment approval date | 21.8.18 |
| Partnership involvement (if applicable) | N/A |
| Final policy approval route i.e. Executive/ Council /Planning Committee | Council |
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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).

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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.

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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):

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- 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.

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This policy will be kept under constant review and may be updated periodically. Minor alterations to the policy may be approved and

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

- the protection of public health and safety;
- the protection of children and vulnerable adults;
- 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-committee. The 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.

Any refusal or revocation will be notified to the National Register of Taxi Licence Revocations and Refusals.

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-COMMITTEE

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

The 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-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 e.g. 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-committee. They may choose to take no action or may issue warnings as to future conduct.

Officers will refer to Licensing 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
- Actual bodily harm which is racially aggravated
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Threats to kill
- Resisting arrest
- Hate crime* against a person (including all forms of assault)
- Any racially-aggravated offences
- Hate crime* against property
- Any similar offences (including attempted or conspiracy to commit) or offences which replace the above.

*Hate crime in the above sections is defined as offences where an aggravating feature is that the offence was motivated by any qualifying characteristic pursuant to the Equalities Act 2010.

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 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 sexual abuse
- 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 offence occurring in the context of domestic violence
- 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 existing licence holder found to have committed this offence will be judged on the circumstances of the case, and normally a minimum suspension of 6 months 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 of passengers for hire and reward 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-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-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-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-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-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-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-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-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-committee. In all such cases officers will subsequently report such action to the Licensing Sub-committee.

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

The Licensing 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-committee has the same options available as an officer acting under delegated powers. The 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-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-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 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

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)



North East
Derbyshire
District Council

Taxi Licensing Policy:
Equality Act 2010 Licensed
Driver Medical Exemption Policy
September 2022

We speak your language

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

Hablamos su idioma

Slovak

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01246 242424 or

North East Derbyshire District

Council on **01246 231111**

**CONTROL SHEET FOR TAXI LICENSING POLICY: EQUALITY ACT 2010 LICENSED
DRIVER MEDICAL EXEMPTION POLICY**

| Policy Details | Comments / Confirmation (To be updated as the document progresses) |
|--------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Policy title | Taxi Licensing Policy: Equality Act 2010 Licensed Driver Medical Exemption Policy |
| Current status – i.e. first draft, version 2 or final version | Final Draft |
| Policy author (post title only) | Environmental Health Adviser |
| Location of policy (whilst in development) – i.e. L-drive, shared drive | S Drive |
| Member route for approval | Licensing Committee |
| Relevant Cabinet Member (if applicable) | N/A |
| Equality Impact Assessment approval date | 21.8.18 |
| Partnership involvement (if applicable) | N/A |
| Final policy approval route i.e. Executive/ Council | 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) | 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 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

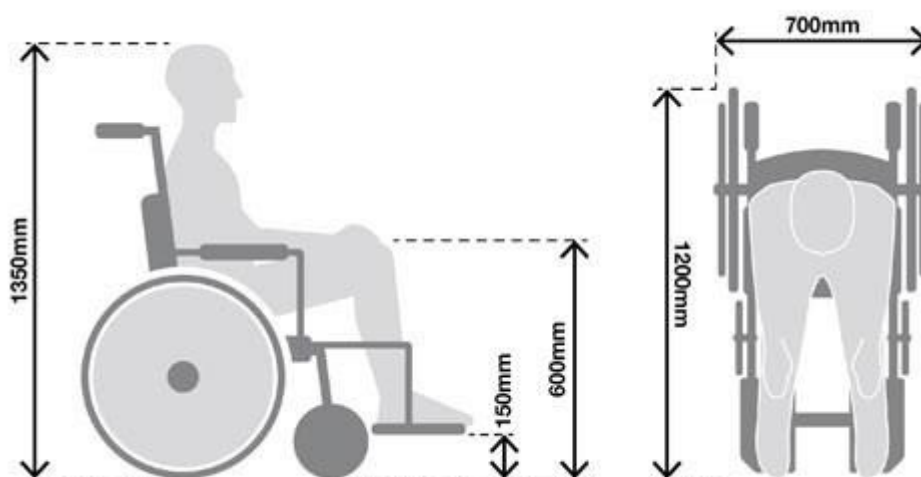
The Equality Act 2010 requires employers and service providers to make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

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 Manager using the contact details below:

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

Email: licensing@ne-derbyshire.gov.uk

Phone: 01246 217884/217885

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 of, 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.

Agenda Item 18

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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Agenda Item 19

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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