

LICENSING COMMITTEE AGENDA



Wednesday 10 October 2018

at 10.00am

**in Committee Room B,
Civic Centre, Hartlepool**

MEMBERS: LICENSING COMMITTEE:

Councillors, Barclay, Brown, Buchan, Cook, Fleming, Hall, Hamilton, Hunter, Morris,
T Richardson, Young and Vacancy

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To approve the minutes of the Licensing Committee meeting held on 13th June 2018
- 3.2 To approve the minutes of the Licensing Sub-Committee meeting held on 9th August 2018

4. ITEMS REQUIRING DECISION

- 4.1 Licensing Sub Committee Memberships – *Interim Chief Solicitor*
- 4.2 Gambling Act – Statement of Licensing Principles – *Assistant Director (Environment and Neighbourhood Services)*
- 4.3 Licensing of Taxi Drivers - *Assistant Director (Environment and Neighbourhood Services)*

5. ITEMS FOR INFORMATION

- 5.1 Animal Welfare Licensing – *Assistant Director (Environment and Neighbourhood Services)*

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT



FOR INFORMATION; -

Date of next meeting: - 10.00am on Wednesday 12th December 2018 in Committee Room B



LICENSING COMMITTEE

MINUTES AND DECISION RECORD

13th June 2018

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

Present:

Councillors: Paul Beck, Bob Buchan, Tim Fleming, Gerard Hall, George Morris and Tony Richardson

Officers: Sylvia Pinkney, Head of Public Protection
Ian Harrison, Trading Standards and Licensing Manager
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

1. Appointment of Chair

In the absence of the Chair and Vice-Chair nominations for a Chair were sought.

Councillor George Morris in the Chair

2. Apologies for Absence

Apologies were submitted by Councillors Allan Barclay and Rob Cook

3. Declarations of interest by Members

None

4. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 15th March 2018

Approved

5. Confirmation of the minutes of the Licensing Committee meeting held on 21st March 2018

Approved

6. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 20th April 2018

Approved

7. Licensing Committee – Sub Committee Memberships *(Interim Chief Solicitor)*

There were four sub committees of three members dedicated to considering licences for premises and three sub committees of four members dedicated to considering licences for hackney carriage and private hire drivers. Following a discussion with the Vice-Chair, the following proposed subcommittee memberships were set out for Members consideration / discussion.

Licensing Sub Committees for premises licences: -

1. Councillors Paul Beck (Chair), Allan Barclay, Tim Fleming
2. Councillors Rob Cook (Chair), Paddy Brown, George Morris
3. Councillors Dave Hunter (Chair), Ged Hall, Tony Richardson
4. Chair of Licensing Committee / Vacancy (Chair), Bob Buchan, Lesley Hamilton

Licensing Sub Committees for hackney carriage and private hire licences: -

1. Councillors George Morris (Chair), Paddy Brown, Bob Buchan, Rob Cook
2. Councillors Ged Hall (Chair), Lesley Hamilton, Dave Hunter, Tony Richardson
3. Councillors Allan Barclay (Chair), Paul Beck, Tim Fleming, Chair of Licensing Committee / Vacancy

It was acknowledged that political balance was difficult to maintain on sub committees of three or four members but there should at least be two parties represented on each subcommittee. The proposals set out meet that requirement as far as practicable.

Decision

That the proposed sub-committees as set out above be approved.

8. Gambling Act – Statement of Licensing Principles *(Assistant Director (Environment and Neighbourhood Services))*

Members were advised that the Council's current statement of licensing principles in relation to gambling activities was due for renewal in January 2019. A draft statement was appended to the report for members'

attention. Consultation on the proposed draft statement would take place and a further report brought back to Committee in October before formal recommendation to Council in December.

The draft statement continued to include the no casino resolution which stated that the Council would not consider any application for a casino in Hartlepool. In addition there was also a requirement for licence holders to consider the geographical area in which their gambling business was based and undertake risk assessments to ensure that gambling activities did not result in unnecessary or unavoidable harm. Members queried whether this gave proprietors the power to bar people. The Trading Standards and Licensing Manager confirmed that it did and people could also self exclude themselves from a gambling establishment by requesting staff not to allow them to use the facilities if they felt that their gambling was getting out of control.

The Trading Standards and Licensing Manager further advised members of Government proposals to reduce the maximum stake on fixed odds betting terminals from £100 to £2.

Decision

That the draft statement of licensing principles required by the Gambling Act as appended, and the commencement of consultation on said statement be approved.

The meeting concluded at 10:20am.

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

9 August 2018

The meeting commenced at 2.00pm in the Civic Centre, Hartlepool

Present:

Councillor: George Morris (In the Chair)

Councillors: Paddy Brown, Bob Buchan and Rob Cook

Officers: Ian Harrison, Trading Standards and Licensing Manager
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

1. Chair

Councillor Morris announced his intention to resign the Chair of this Sub-Committee with immediate effect. Members subsequently nominated Councillor Cook as replacement Chair for the purposes of this meeting.

Councillor Rob Cook in the Chair

2. Apologies

None

3. Declarations of interest by Members

None

4. Local Government (Access to Information) (Variation Order) 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 5 – Hackney Carriage Drivers Licence MY – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to any individual (para. 1).

- 5. Hackney Carriage Drivers Licence MY** (*Assistant Director (Environment and Neighbourhood Services)*) This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to any individual.

Members were asked to consider what action, if any, should be taken against a licensed hackney carriage driver. Further details are contained within the exempt minutes.

Decision

Contained within the exempt minutes.

The meeting concluded at 4.20pm.

CHAIR

LICENSING COMMITTEE

10 October 2018



Report of: Interim Chief Solicitor

Subject: LICENSING SUB COMMITTEE MEMBERSHIPS

1. PURPOSE OF REPORT

- 1.1 To seek instructions regarding the vacancy for Chair of Licensing Sub-Committee no 4 for premises licences
- 1.2 To seek instructions regarding the vacancy for Chair of Licensing Sub Committee no 1 for Hackney Carriage and Private Hire Licences.
- 1.3 To seek instructions regarding the vacancies on Licensing Sub Committee no 3 for Hackney Carriage and Private Hire Licences.
- 1.4 To seek instructions regarding the vacancy for Chair of Licensing Sub-Committee no 1 for premises licences

2. BACKGROUND

- 2.1 At the meeting of Licensing Committee on 13th June 2018 members approved the memberships of the seven licensing sub-committees as follows:

Licensing Sub Committees for premises licences: -

- 1. Paul Beck (Chair), Allan Barclay, Tim Fleming
- 2. Rob Cook (Chair), Paddy Brown, George Morris
- 3. Dave Hunter (Chair), Ged Hall, Tony Richardson
- 4. Chair of Licensing Committee / Vacancy (Chair), Bob Buchan, Lesley Hamilton

Licensing Sub Committees for hackney carriage and private hire licences: -

- 1. George Morris (Chair), Paddy Brown, Bob Buchan, Rob Cook
- 2. Ged Hall (Chair), Lesley Hamilton, Dave Hunter, Tony Richardson
- 3. Allan Barclay (Chair), Paul Beck, Tim Fleming, Chair of Licensing Committee / Vacancy

3. SUB-COMMITTEE VACANCIES

- 3.1 The vacancies were as a result of the resignation of Councillor Ray Martin-Wells as Rural West Ward Councillor. On 21st June 2018 Council agreed that all vacancies resulting from Councillor Martin-Wells' resignation would not be filled until the Rural West by-election on 12th July 2018. Mike Young was duly elected as Ward Councillor on that date and was appointed by Council as Chair of Licensing Committee on 13th September 2018.
- 3.2 At a meeting of Licensing Sub-Committee no 1 for Hackney Carriage and Private Hire Licences on 9th August 2018 Councillor George Morris resigned the Chair of the Sub-Committee with immediate effect.
- 3.3 On 31st August 2018 Councillor Paul Beck resigned as Hart Ward Councillor. On 13th September 2018 Council agreed that all vacancies resulting from Councillor Beck's resignation would not be filled until the Hart by-election on 11th October 2018.

3. RECOMMENDATIONS

- 3.1 That the Committee appoint the Chair of Licensing Sub-Committee no 4 for premises licences
- 3.2 That the Committee appoint the Chair of Licensing Sub-Committee no 1 for Hackney Carriage and Private Hire Licences
- 3.3 That the Committee make a recommendation regarding the Chair of Licensing Sub-Committee no 1 for premises licences.
- 3.4 That the Committee appoint to 1 vacancy and make a recommendation on the other on Licensing Sub Committee no 3 for Hackney Carriage and Private Hire Licences

4. REASONS FOR RECOMMENDATIONS

To fill existing vacancies in order to enable any necessary business to be transacted.

5. BACKGROUND PAPERS

Licensing Committee Minutes 13 June 2018
Council minutes 21st June 2018

6. CONTACT OFFICER

Jo Stubbs, Democratic Services Officer
01429 523568
Jo.stubbs@hartlepool.gov.uk

LICENSING COMMITTEE

10 October 2018



Report of: Assistant Director (Environment & Neighbourhood Services)

Subject: GAMBLING ACT – STATEMENT OF LICENSING PRINCIPLES

1. PURPOSE OF REPORT

- 1.1 To consider a draft Statement of Licensing Principles for the Gambling Act 2005.

2. BACKGROUND

- 2.1 The Gambling Act 2005 requires licensing authorities to publish, every three years, a statement of the principles that they propose to apply in exercising their functions under the Act.
- 2.2 Hartlepool's current statement of licensing principles was published in January 2016 and, as such, a new policy must be published no later than January 2019.
- 2.3 A draft new statement was presented to the Licensing Committee at its meeting on 13th June 2018 and approval was given for a consultation exercise to be undertaken. A copy of this draft statement is attached as **Appendix 1**.
- 2.4 The consultation period ended on 21st September 2018 and no responses were received. This is not unusual as the draft statement does not contain any significant alterations to Hartlepool's current/previous statement and there have been no noteworthy national developments that would stimulate interest.
- 2.5 One matter that had been of concern in previous years was the proliferation of 'Fixed Odds Betting Terminals' (FOBT's), which have maximum permitted stakes of £100, and which were widely regarded as being harmful to gamblers. However, the Government has recently announced its intention to reduce the maximum stake on FOBT's from £100 to £2 and, as such, there have been no representations received on this matter this year.

3. PROPOSALS

- 3.1 Licensing authorities are required to publish a statement of licensing principles every three years.
- 3.2 Hartlepool's current statement was published in January 2016 and, as such, a new policy must be published no later than January 2019.
- 3.3 As with previous policies, the draft statement contains a 'no casino' resolution and Members are required to consider whether such a resolution should remain. Whilst such a resolution is permitted by the Gambling Act it does not, in reality, carry any weight as casinos can only be developed in areas that have been pre-approved by the Gambling Commission and Hartlepool is not one of those areas.
- 3.4 However, Members may feel that retaining the 'no casino' resolution makes an important statement that Hartlepool would not welcome any interest from developers should regulations change.
- 3.5 Formal adoption of the statement of licensing principles must be made by full Council.
- 3.6 It is therefore proposed that the Licensing Committee agree and endorse the proposed statement as detailed in Appendix 1 and recommend its adoption to full Council at its meeting on 20th December 2018. This will ensure that the Council's obligation to have a new Statement in place for January 2019 is discharged.

4. RECOMMENDATIONS

- 4.1 That Members consider the draft statement of licensing principles as detailed in Appendix 1 and, if appropriate, agree to its recommendation to full Council.
- 4.2 That Members consider whether a 'No Casino' resolution should be incorporated into the draft statement of licensing principles.

5. BACKGROUND PAPERS

- 5.1 Licensing Committee report and Minutes – 13th June 2018

6. CONTACT OFFICER

Tony Hanson
Assistant Director (Environment & Neighbourhood Services)
Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY

(01429) 523400
Tony.hanson@hartlepool.gov.uk

Sylvia Pinkney
Head of Public Protection
Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY

(01429) 523315
Sylvia.pinkney@hartlepool.gov.uk

DRAFT

DRAFT

DRAFT

STATEMENT OF PRINCIPLES
Gambling Act 2005
(Published 3rd January 2019)



Contents

Item	Page
Part A	
1. The licensing objectives	2
2. Introduction	2
3. Declaration	3
4. Responsible Authorities	3
5. Interested parties	4
6. Exchange of information	4
7. Enforcement	5
8. Licensing authority functions	6
Part B - Premises licences	
9. General Principles	7
10. Adult Gaming Centres	12
11. (Licensed) Family Entertainment Centres	14
12. Casinos	15
13. Bingo	15
14. Betting premises	15
15. Travelling fairs	15
16. Provisional Statements	16
17. Reviews	17
Part C - Permits / Temporary and Occasional Use Notices	
18. Unlicensed Family Entertainment Centre gaming machine permits	19
19. (Alcohol) Licensed premises gaming machine permits	20
20. Prize Gaming Permits	21
21. Club Gaming and Club Machines Permits	21
22. Temporary Use Notices	22
23. Occasional Use Notices	22
Appendix 1 – Local Area Profile	
Appendix 2 – Summary of Delegations	
Appendix 3 - Consultees	

This Statement of Licensing Principles was approved by Hartlepool Borough Council on 20th December 2018.

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015 (and updated September 2016).

PART A**1. The Licensing Objectives**

- 1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.3 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:
- In accordance with any relevant code of practice issued by the Gambling Commission
 - In accordance with any relevant guidance issued by the Gambling Commission
 - Reasonably consistent with the licensing objectives and
 - In accordance with the authority’s statement of licensing policy

2. Introduction

- 2.1 Hartlepool is situated on the North East coast of England. The Borough consists of the town of Hartlepool and a number of small outlying villages. The total area of the Borough is 9,390 hectares.
- 2.2 Hartlepool is a unitary authority, providing a full range of services. It adjoins Durham to the north, Sedgefield District Council to the west and Stockton on Tees Borough Council to the south. The residential population is 90,161 of which ethnic minorities comprise 1.2% (2001 census).
- 2.3 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 2.4 Hartlepool Borough Council consulted widely on this statement before it was published. A list of those persons consulted is detailed in Appendix 3.
- 2.5 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;

- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

2.6 Our consultation took place between 19th June 2018 and 21st September 2018 and we took into consideration the Code of Practice on Consultations published by HM Government in 2008 which is available at <http://www.bis.gov.uk/files/file47158.pdf>.

2.7 The policy was approved at a meeting of the Full Council on 20th December 2018 and was published via our website on 2nd January 2019. Hard copies of the policy are available on request from the address detailed below.

2.8 Should you have any comments as regards this policy statement, or the consultation process, please send them via e-mail or letter to the following contact:

Trading Standards & Licensing Manager
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

e-mail: licensing@hartlepool.gov.uk

2.9 It should be noted that this statement of licensing principles will not override the right of any person to make an application (other than for a casino), make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2.10 Gambling Prevalence Survey 2010

Overall, 73% of the adult population (aged 16 and over) participated in some form of gambling in the previous year. This equates to around 35.5 million adults. The most popular gambling activity was the National Lottery. In 2010, 59% of adults had bought tickets for the National Lottery Draw, a slight increase from the rates observed in 2007 (57%) but lower than rates observed in 1999 (65%).

2.11 Excluding those who had only gambled on the National Lottery Draw, 56% of adults participated in some other form of gambling in the past year. This highlights a significant increase in past year participation on other gambling activities, such as an increase in betting on other events i.e., events other than horse races or dog races with a bookmaker (3% in 1999, 9% in 2010), buying scratch cards (20% in 2007, 24% in 2010), buying other lotteries tickets (8% in 1999, 25% in 2010), gambling online on poker, bingo, casino and slot machine style games (3% in 2007, 5% in 2010) and gambling on fixed odds betting terminals (3% in 2007, 4% in 2010).

- 2.12 Two measures of problem gambling showed rates of problem gambling in the general population of 0.6% and 0.5%. A significant association was found between problem gambling and being male with regular parental gambling. It was also associated with poor health, being single and being Asian/British Asian. The highest prevalence of problem gambling was found among those who participated in spread betting (14.7%), Fixed Odds Betting Terminals (FOBTs) (11.2%) and betting exchanges (9.8%). Of these, only FOBTs are regulated under the Gambling Act 2005.

3. Declaration

- 3.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

4. Responsible Authorities

- 4.1 **The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:**

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

- 4.2 Hartlepool Borough Council designates the Local Safeguarding Children Board for this purpose.

- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.hartlepool.gov.uk/licensing.

5. Interested parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities
- has business interests that might be affected by the authorised activities
- represents persons in either of these two groups.

- 5.2 There are a number of factors that the Council may take into account when determining whether a person lives 'sufficiently close to the premises'. These include: -

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation

- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises.

5.3 Relevant factors will depend on the particular application. For example the Council may consider that living sufficiently close to premises to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

5.4 For those with business interests, the licensing authority should be satisfied that the relevant business is likely to be genuinely affected. Factors that are likely to be relevant include:

- the size of the premises
- the 'catchment' area of the premises, that is, how far people travel to visit the premises
- whether the person making the representation has business interests in that catchment area that might be affected.

5.5 In addition to the above, interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

5.6 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department at the Civic Centre, Hartlepool.

6. Exchange of Information

6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

7. Enforcement

7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 This licensing authority's principles are that:

7.3 It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

7.4 As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.5 This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
- The principles set out in this statement of licensing policy

7.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

7.7 This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

7.8 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the licensing department, Hartlepool Borough Council, Civic Centre, Hartlepool, TS24 8AY. Our risk methodology is also available upon request.

8. Licensing authority functions

8.1 Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

8.2 It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

PART B
PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

9. General Principles

9.1 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

9.2 (i) Decision-making

9.3 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

9.4 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority.

9.5 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

9.6 **Definition of "premises"** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

9.7 The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration

and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

9.8 This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the premises licence.

9.9 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

9.10 This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

9.11 **The Gambling Commission’s relevant access provisions for each premises type are reproduced below:**

9.12 **Casinos**

- The principal access entrance to the premises must be from a street
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

9.13 **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

9.14 Betting Shops

- Access must be from a street or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

9.15 Tracks

- No customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

9.16 Bingo Premises

- No customer must be able to access the premise directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

9.17 Family Entertainment Centre

- No customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

9.18 Premises “ready for gambling”

9.19 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

9.20 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

9.21 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

- 9.22 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
- 9.23 More detailed examples of the circumstances in which such a licence may be granted can be found in the Gambling Commission's Guidance to Licensing Authorities.
- 9.24 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.
- 9.25 **Planning** - The Gambling Commission Guidance to Licensing Authorities states:
- 7.58 – In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them. [Part 11](#) of this guidance gives more information about provisional statements.
- 9.26 This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:
- 7.65 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.
- 9.27 **Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which

are not able to be met by licensees due to planning restrictions, should such a situation arise.

- 9.28 When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.
- 9.29 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.
- 9.30 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.
- 9.31 Ensuring that gambling is conducted in a fair and open way - **This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.**
- 9.32 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.
- 9.33 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.
- 9.34 As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis.
- 9.35 **Conditions** - Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 9.36 Decisions on individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.
- 9.37 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 9.38 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 9.39 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 9.40 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 9.41 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
 - conditions relating to gaming machine categories, numbers, or method of operation;
 - conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and

- conditions in relation to stakes, fees, winning or prizes.

9.42 **Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

9.43 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

9.44 **Local Risk Assessments**

9.45 Since 6 April 2016, the Gambling Commission's 'Licence Conditions Code of Practice' (LCCP) has required all existing licensees that provide gambling facilities at their premises, to assess the local risks to the licensing objectives and have policies, procedures and control measures to reduce those risks. Licensees must take into account any relevant matters identified in the licensing authorities (gambling) Statement of Policy when making their risk assessments.

9.46 In making risk assessments, licensees must take into account relevant matters identified in this policy.

9.47 The LCCP also states that licensees must review (and update as necessary) their local risk assessments:

- To take account of significant changes in local circumstances, including those identified in this policy;
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- When applying for a variation of a premise licence; and
- In any case, undertake a local risk assessment when applying for a new premise licence.

9.48 The licensing authority will expect the local risk assessment to consider as a minimum:

- Whether the premise is in an area with high levels of crime and/or disorder
- Whether the premise is in an area of high deprivation
- The demographics of the area in respect of vulnerable groups of people including those with gambling dependencies, where this information is available
- Location of services and amenities for children in the area such as schools, playgrounds, leisure facilities and other areas where children may gather.

9.49 The risk assessment may also include:

- Procedures in place to ensure staff are adequately trained in how to monitor and deal with customers suspected of excessive gambling (including brief intervention training for staff), vulnerable persons or children and also details and regularity of training given
- Details of supervisory and management procedures in place including number of staff available and their designated duties and responsibilities

- Details of any consideration given to the need for CCTV in the premise and if installed how the system will be operated and monitored and what coverage it is designed to give in the premise.
- Details of the signage and documents relating to games rules, gambling care providers and other relevant information including a consideration of whether information needs to be provided in another language that may be prevalent in the locality.

9.50 Such information may be used to inform the decision the Authority makes about whether to grant a licence, to grant a licence with special conditions or to refuse the application. The policy does not prevent an application made and each application will be decided on its merits with the onus being on the applicant to show how the concerns.

10. Adult Gaming Centres

10.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

10.2 This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

11. (Licensed) Family Entertainment Centres:

11.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

11.2 This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas

- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

11.3 This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

11.4 This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

12. Casinos

12.1 This licensing authority has passed a 'no casino' resolution on the basis that whilst it recognises that gambling can be an enjoyable and harmless activity for many, it believes that a casino may provide an environment that may harm vulnerable persons who may gamble beyond their means.

12.2 Potential licence applicants should note that as a 'no-casino' resolution has been passed by this authority no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

13. Bingo premises

13.1 This licensing authority notes that the Gambling Commission's Guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted: -

18.5 Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

14. Betting premises

14.1 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for

those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

15. Travelling Fairs

- 15.1 This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 15.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 15.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

16. Provisional Statements

- 16.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 16.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 16.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 16.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 16.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional

- statement stage, or
 - they reflect a change in the applicant's circumstances.
- 16.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
 - which in the authority's opinion reflect a change in the operator's circumstances; or
 - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

17. Reviews

- 17.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of principles.
- 17.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 17.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 17.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 17.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 17.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- (a) add, remove or amend a licence condition imposed by the licensing authority;
 - (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
 - (c) suspend the premises licence for a period not exceeding three months; and

(d) revoke the premises licence.

- 17.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 17.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 17.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder
 - the applicant for review (if any)
 - the Commission
 - any person who made representations
 - the chief officer of police or chief constable; and
 - Her Majesty's Commissioners for Revenue and Customs

PART C
Permits / Temporary & Occasional Use Notice

18. Unlicensed Family Entertainment Centre gaming machine permits

- 18.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 18.2 Gambling Commission Guidance states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applicants to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
 - that staff are trained to have a full understanding of the maximum stakes and prizes.
- 18.3 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 18.4 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

19. (Alcohol) Licensed premises gaming machine permits - Automatic entitlement: 2 machines

- 19.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.
- 19.2 The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

19.3 Permit: 3 or more machines

- 19.4 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission and “*such matters as they think relevant.*”
- 19.5 This licensing authority considers that “*such matters*” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 19.6 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 19.7 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 19.8 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

20. Prize Gaming Permits

- 20.1 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 20.2 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and

- participation in the gaming must not entitle the player to take part in any other gambling.

21. Club Gaming and Club Machines Permits

- 21.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 21.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 21.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 21.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 21.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

22. Temporary Use Notices

- 22.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 22.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 22.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 22.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 22.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 22.6 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

23. Occasional Use Notices

- 23.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

DRAFT

DRAFT

DRAFT

END

CONTACT DETAILS, ADVICE & GUIDANCE

Further details regarding the licensing application process, including application forms, can be obtained from:

The Licensing Team
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Tel No: 01429 523354
Fax No: 01429 523308
Email: licensing@hartlepool.gov.uk
Web Site: www.hartlepool.gov.uk/licensing

Local Area Profile

The Gambling Commission recommends that licensing authorities provide a 'local area profile' to assist gambling operators to understand the risks, or potential risks, associated with particular geographical areas.

As an area profile can change with time, Hartlepool Borough Council refers licence holders, or potential applicants, to the following sources of information about Hartlepool: -

Tees Valley Combined Authority - <https://teesvalley-ca.gov.uk/research-intelligence/area-profile/>

Government website – Indices of deprivation 2015 -
<https://www.gov.uk/government/statistics/english-indices-of-deprivation-2015>

**SUMMARY OF LICENSING AUTHORITY DELEGATIONS PERMITTED
UNDER THE GAMBLING ACT**

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Final approval of three year Statement of licensing principles	X		
Policy not to permit casinos	X		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

CONSULTATION

The following individuals/agencies and organisations were consulted about this Statement of Licensing Principles between June and August 2018: -

Hartlepool Borough Council councillors
Chief of Cleveland Police
Cleveland Fire Service
Hartlepool Borough Council Planning Department
Hartlepool Borough Council Trading Standards Service
Hartlepool Borough Council Environmental Health
Combined Authority
HMRC
Gamblers Anonymous
GamCare
British Beer and Pub Association
Association of British Bookmakers
Bingo Association
Remote Gambling Association
Business in Sport & Leisure
Casino Operators Association
BACTA
British Holiday & Home Parks Association
British Race Courses Association Ltd
British Casino Association

LICENSING COMMITTEE

10 October 2018



Report of: Assistant Director (Environment & Neighbourhood Services)

Subject: LICENSING OF TAXI DRIVERS

1. PURPOSE OF REPORT

- 1.1 To consider the adoption of new guidelines relating to the relevance of previous convictions for taxi drivers.
- 1.2 To consider amendments to the Council's Taxi Licensing Policy in response to the introduction of a new national database for revoked and refused taxi drivers.

2. BACKGROUND

- 2.1 Relevance of Previous Convictions
- 2.2 By virtue of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 the Council is responsible for licensing hackney carriage and private hire drivers.
- 2.3 The legislation states that licensing authorities must only license drivers that are considered to be 'fit and proper' but there is no statutory definition of exactly what this means. As such, it is for each licensing authority to make its own judgment as to what factors should be taken into account when determining whether a driver is 'fit and proper'.
- 2.4 As the Rehabilitation of Offenders Act does not apply to taxi drivers, all previous criminal convictions can be taken into account when making a determination about a driver's fitness. However, the Licensing Committee has previously determined that it would be appropriate to have a guidance document that it could refer to when considering the relevance of previous convictions and how such convictions may be judged to impact on an applicant's fitness to hold a licence.
- 2.5 The current guidance has been in place for a number of years and is referred to on every occasion where a taxi driver, or applicant, has previous criminal

convictions. The document is also referred to whenever a driver appeals a sub-committee decision to the Magistrates Court.

- 2.6 The Institute of Licensing has now provided a revised document that takes into account recent developments in the law and the continued need for the highest standards of public protection.
- 2.7 The new guidance document, which is attached as **Appendix 1**, has been widely consulted on and has received the support of the Local Government Association, the National Association of Licensing Enforcement Officers and 'Lawyers in Local Government'.
- 2.8 National Register of Revocations & Refusals
- 2.9 There has been a long standing area of concern relating to taxi drivers who have been judged to be unfit by one licensing authority moving to another to be licensed again.
- 2.10 Whilst applicants must provide licensing authorities with a DBS disclosure that details their previous criminal convictions, there has been no means of establishing whether an applicant has previously been refused a licence, or had an existing licence revoked, by another authority.
- 2.11 As a licence may be refused or revoked for a number of reasons that are not, in themselves, criminal offences, licensing authorities were reliant on an applicant's honesty in declaring any previous history with another licensing authority.
- 2.12 There has been a number of occasions where taxi drivers have had their licences revoked for extremely serious matters who have simply moved to another licensing authority and, by being dishonest in their application, have successfully obtained another licence.
- 2.13 Recent changes to taxi licensing laws that allow taxis to work across boundaries could mean that a driver refused or revoked by one licensing authority could continue to work in that area, albeit under a licence issued by another authority.
- 2.14 The Local Government Association has now taken steps to address this issue by launching a new national register of revoked and refused taxi drivers.
- 2.15 The new register, known as NR3, became operational in September 2018, and it is proposed that Hartlepool will make full use of it.
- 2.16 As the register contains certain personal information about refused and revoked taxi drivers, there are a number of data protection measures that licensing authorities must put in place - one of these is to make reference to NR3 in its Taxi Licensing Policy.

3. PROPOSALS

3.1 Relevance of Previous Convictions

3.2 The Institute of Licensing's new guidance document on the relevance of previous criminal conditions provides licensing authorities with a valuable tool for the assessment of an applicant's fitness to be a licensed taxi driver.

3.3 The new document provides additional clarity in some areas that were not well addressed previously and, in general, raises the standards that would be expected for applicants/drivers.

3.4 If adopted by Licensing Committee, the guidance would be referred to in all future taxi driver applications but sub-committees would continue to exercise their discretion on how the guidance should be applied, remembering that every application must be considered on its own merits.

3.5 Where a sub-committee considered an applicant to be unfit, and their application was refused, or their licence revoked, the new guidance would provide the Council with valuable support for its decision should the matter be appealed to the Magistrates Court.

3.6 National Register of Revocations and Refusals

3.7 The new national register of taxi driver revocations and refusals will provide all licensing authorities with valuable additional information to assist them in making licensing decisions.

3.8 It is proposed that Hartlepool Borough Council should adopt the new register – uploading information about drivers that the Council refuses or revokes, and searching the database as part of its procedure for considering all new applicants.

3.9 In order to adopt the new register, the Licensing Committee must approve an amendment to the current Taxi Licensing Policy in order to comply with data protection requirements.

3.10 The proposed amendments to the policy are detailed in paragraph 2.54 of the draft Licensing Policy attached as **Appendix 2**.

4. RECOMMENDATIONS

4.1 That Members approve the adoption of new guidance on the relevance of previous convictions as detailed in Appendix 1.

4.2 That members approve the amendment of the Taxi Licensing Policy as detailed in paragraph 2.54 of Appendix 2.

5. BACKGROUND PAPERS

- 5.1 There are no background papers associated with this report.

6. CONTACT OFFICER

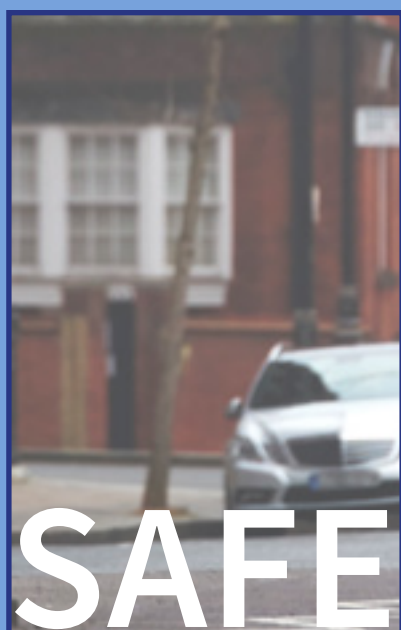
Tony Hanson
Assistant Director (Environment & Neighbourhood Services)
Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY

(01429) 523400
Tony.hanson@hartlepool.gov.uk

Sylvia Pinkney
Head of Public Protection
Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY

(01429) 523315
Sylvia.pinkney@hartlepool.gov.uk

Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:



Contents

Foreword	2
Chapter 1: Introduction	3
Chapter 2: Offenders and Offending - An Overview	5
Risk of re-offending:	7
Chapter 3: 'Taxi' Licensing Overview	9
Taxi Drivers	9
Private Hire Operators	13
Vehicle Proprietors	15
Chapter 4: Guidance on Determination	17
Pre-application requirements	17
Vehicles:	17
Drivers:	18
Operators:	18
Drivers	20
Crimes resulting in death	21
Exploitation	21
Offences involving violence	21
Possession of a weapon	21
Sex and indecency offences	21
Dishonesty	22
Drugs	22
Discrimination	22
Motoring convictions	22
Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving	22
Other motoring offences	23
Hackney carriage and private hire offences	23
Vehicle use offences	23
Private Hire Operators	23
Vehicle proprietors	24
Acknowledgements	25

Foreword

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

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

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

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

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC
Cornerstone Barristers

April 2018

Chapter 1: Introduction

- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

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

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

² [2007] 1 WLR 2067

Chapter 2: Offenders and Offending - An Overview

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.³ With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm⁴. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

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

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

- 2.6 Flaud⁵ noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place⁶.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future⁷. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%⁸. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences⁹.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity¹⁰. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population¹¹. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

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

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

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

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

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

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

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

Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”¹².
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”¹³.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over¹⁴. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships¹⁵. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males¹⁶.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist¹⁷. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance¹⁸. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

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

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

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

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

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

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

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

ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”¹⁹.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

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

Chapter 3: 'Taxi' Licensing Overview

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

Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory

criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person²⁰.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK²¹.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.²²
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*²³. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’²⁴
- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

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

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

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

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

²⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 10.21

3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?

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

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

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

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

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

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

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared²⁷) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker²⁸.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks²⁹ and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

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

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

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

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

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

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability³⁰.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account³¹. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

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

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

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

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

Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority³². A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person³³.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”³⁴
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

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

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

³⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 12.35

obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation³⁵. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence³⁶ and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

³⁵ See s57(1)(c) of the 1976 Act.

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

satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”³⁷

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

Chapter 4: Guidance on Determination

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

Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

Vehicles:

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

Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership³⁸) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

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

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction³⁹. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁴⁰.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

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

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

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

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

Drivers

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

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

Crimes resulting in death

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

Exploitation

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

Offences involving violence

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

Possession of a weapon

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

Sex and indecency offences

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

Dishonesty

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

Drugs

- 4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

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

Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

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

- 4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

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

Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

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

Vehicle proprietors

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

Acknowledgements

In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

The Institute is delighted to have the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government contributing to and supporting this project with IoL.

The Institute is also grateful to others who have contributed to the work of the project group, including former probation officer Hannah Jones (now Housing Officer at Flintshire Council) who has assisted the group in providing the chapter on 'Offenders and Offending'.

This project has been further enhanced by invaluable contributions from the following individuals and organisations:

- Ellie Greenwood and Rebecca Johnson, Local Government Association
- Tim Briton, Lawyers in Local Government
- Ben Atrill
- Suzy Lamplugh Trust
- Councillor Richard Wright, North Kesteven District Council
- Professor of Criminology Fiona Measham, Durham University
- Councillor Philip Evans, Conwy County Borough Council
- Councillors Catriona Morris and Mick Legg, Milton Keynes Council
- Louise Scott Garner
- Jenna Parker, Institute of Licensing

Finally, grateful thanks go to all those who responded to the initial fact-finding survey and the subsequent consultation on the draft guidance.

Institute of Licensing
Egerton House
2 Tower Road
Birkenhead
CH41 1FN
T: 0151 650 6984
E: info@instituteoflicensing.org

 **Institute of Licensing** www.instituteoflicensing.org

The Local Government Association (LGA) is the national voice of local government. www.local.gov.uk

Lawyers in Local Government (LLG). www.lawyersinlocalgovernment.org

National Association of Licensing and Enforcement Officers (NALEO). www.naleo.org.uk

DRAFT DRAFT



DRAFT DRAFT

PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING POLICY

APPROVED BY HARTLEPOOL BOROUGH COUNCIL

Date 10th October 2018

CONTENTS		PAGE
	Introduction	3
	Driver Licences	8
	Vehicle Licences	16
	Private Hire Operators	18
	APPENDICES	
1	Hackney Carriage By-laws	
2	Private Hire Driver Conditions	
3	Code of Good Conduct for Licensing Drivers	
4	Driver's Dress Code	
5	Hackney Carriage Vehicle Conditions	
6	Private Hire Vehicle Conditions	
7	Limousines and Novelty Vehicles	
8	Private Hire Operator Conditions	
9	Horse Drawn Carriages	

1. INTRODUCTION

- 1.1 Hackney carriages and private hire vehicles play an important part in the provision of local transport. They provide a flexible form of public transport and can play an increasingly important role in improving accessibility. They are also used by all social groups.
- 1.2 **The purpose of the Local Authority when licensing hackney carriages and private hire vehicles, drivers and operators is to protect the public.** Hartlepool Borough Council ("The Council") is aware that the public should have reasonable access to safe and comfortable hackney carriages and private hire vehicles because of the role they play in local transport provision.
- 1.3 A hackney carriage is a public transport vehicle with no more than 8 passenger seats, which is licensed to "ply for hire". This means that it may wait at designated taxi stands or be hailed in the street by members of the public in addition to being pre-booked.
- 1.4 Private hire vehicles must also have no more than 8 passenger seats but they must be booked in advance through an operator and may not ply for hire in the street.
- 1.5 Local authorities are responsible for the licensing, administration and enforcement of hackney carriages and private hire vehicles in their areas.

Powers and Duties

- 1.6 The Council has adopted Part 2 of The Local Government (Miscellaneous Provisions) Act 1976. This legislation, together with the provisions of The Town Police Clauses Act 1847, places on the Council the powers and duties to carry out licensing functions in respect of hackney carriage and private hire licensing. As such the Council is responsible for the licensing of private hire drivers, vehicles and operators and hackney carriage drivers and vehicles. This document sets out the policy that the Council will apply when making decisions about new applications and licences currently in force.

Licensing Objectives

- 1.7 The objectives of this Policy are as follows:
- a) To protect the interests of the travelling public, and others who may be affected by licensed activities, by:
 - i) Ensuring that the drivers of such vehicles and private hire operators are "fit and proper" persons.
 - ii) Ensuring that safe, clean, reliable and accessible hackney

carriage and private hire vehicles are available for all who require them.

- b) To provide clarity for licensees with regard to the Council's expectations and the decision making process.
- c) To encourage environmental sustainability.
- d) To encourage high standards of professionalism in the hackney carriage and private hire trade

1.8 This Policy shall apply in respect of applications, renewals, transfers and any other related matters connected to the following licences:

- a) Hackney carriage driver
- b) Hackney carriage vehicle
- c) Private hire driver
- d) Private hire vehicle
- e) Private hire operator

Licensing Methods

1.9 The methods the Council shall use are as follows:

- a) Setting the standards for the licensing of drivers, vehicles and operators.
- b) Annual licensing and routine inspection of vehicles, with appropriate follow up action.
- c) Routine inspection of insurance policies and Certificates of Compliance / MOT certificates, with appropriate follow up action.
- d) Checks of driver's medical health, criminal record, driving ability and knowledge of the Borough.
- e) Investigation of complaints with appropriate follow up action.
- f) Liaison with the Police and other agencies regarding issues of mutual concern in relation to offences or the conduct of licensees.
- g) Liaison with the hackney carriage and private hire trade by way of open meetings.
- h) Taking enforcement and/or disciplinary action including the issue of prosecution proceedings, verbal and written warnings, simple cautions, suspension or revocation of licences for breaches of legislation, conditions or this policy.
- i) Conditions added to licences.
- j) The issue of guidance notes.

1.10 When considering applications and taking enforcement action the Council is subject to the Regulatory Compliance Code, the Council's Enforcement Policy and the Code for Crown Prosecutors.

Best Practice Guidance

1.11 In formulating this Policy the Council has considered the best practice guidance issued by the Department for Transport and other

organisations.

Status

- 1.12 In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy and the objectives set out above.
- 1.13 Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from the Policy, clear and compelling reasons will be given for doing so.

Implementation and Review

- 1.14 This Policy will take effect from 21st March 2018. From the effective date, this Policy will override and supersede all existing policies in relation to the licensing of private hire and hackney carriages, their drivers and operators.
- 1.15 The Council will keep this Policy under review and will consult where appropriate on proposed revisions.
- 1.16 When this Policy is implemented, the Council will require licence holders to comply with its terms immediately or, where appropriate, from the renewal of a current licence. Where it is not possible to comply with part of the Policy due to an outstanding action required by the Council information will be provided as to an implementation date for that part.
- 1.17 Vehicles licensed under any previous licensing policy may have their licences renewed without having to comply with any new requirements imposed by this policy where to do so would be uneconomic or impractical.
- 1.18 After the introduction of this Policy, the Council may make decisions, which change the content of this Policy. The changes may either have immediate effect or come into effect on a given date. This Policy document will be regularly updated to reflect these changes. Amended copies of the Policy will be available from the Licensing Office and via the internet.

Consultation

- 1.19 In preparing this Policy the Council has taken into account the views of:
- | | |
|-----------------------|-----------------------------------------|
| a) Licensees | b) Cleveland Police |
| c) Planning Authority | d) Safeguarding Children's Board |
| d) Disability Groups | e) School Transport Division |
| f) Service Users | g) North East Strategic Licensing Group |
- 1.20 The Council will also consult with other organisations when necessary.

Partnership Working

1.21 The Council will work in partnership with the following agencies and individuals to promote the policy objectives:

- | | |
|--------------------------------------------------|-----------------------------------------|
| a) Local Hackney Carriage and Private Hire Trade | b) Cleveland Constabulary |
| c) Local Transport Authorities and Committees | d) Planning Authority |
| e) Local Residents | f) Disability Groups |
| g) Service Users | h) Tees Valley Licensing Group |
| i) HM Revenue and Customs | j) Department of Work and Pensions |
| k) Other Council Departments | l) North East Strategic Licensing Group |

Related Policies and Strategies

1.22 This Policy will be integrated with local planning, transport, tourism, equality and cultural strategies, and other plans introduced for the management of the Borough and night-time economy.

1.23 The Council as a member of the Tees Valley Licensing Liaison Group will work with the other council representatives to seek harmonisation of policies and conditions, where applicable, across the Tees Valley. The Council will also work in partnership with other agencies including those referred to in paragraph 1.21 above.

Equality

1.24 The Council is committed to ensuring equality in employment and service delivery. To achieve the above standard the Council is aware of its duties under the Equality Act 2010 and the Human Rights Act 1998.

Duties and Obligations under the Equality Act 2010

1.25 The Equality Act 2010 consolidates the legislation previously set out in the Disability Discrimination Act 1995 and the Disability Discrimination Act 2005 to increase access to transport services and infrastructure by disabled people. Those who provide transport services by way of Hackney Carriages and Private Hire vehicles are advised to contact the Equality and Human Rights Commission for further information and advice on avoiding discrimination.

1.26 It is a requirement of a vehicle licence that wheelchair accessible vehicles have the appropriate equipment so as to transport passengers

in wheelchairs safely and in reasonable comfort at all times. Any vehicle proprietor found in breach of this may be disciplined.

- 1.27 Licensed drivers are under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without any additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply for an exemption from the duty on medical grounds. A medical certificate must be provided, at the drivers expense, from the drivers own GP stating the details of their medical condition. A register will be kept of those drivers exempted. **Persons who breach duties may be guilty of a criminal offence.**

- 1.28 Further information is available from the Equality and Human Rights Commission at www.equalityhumanrights.com

Duties and Obligations under the Human Rights Act 1998

- 1.29 Article 1 of Protocol 1 of the European Convention of Human Rights confers on Individuals (and companies) the Right to Peaceful Enjoyment of their possessions and the Protection of Property. Once granted, a Licence is a possession and no one can be deprived of his property or have controls put on his property except where the action is permitted by law and justifiable in the public or general interest.

- 1.30 When considering matters relating to the grant, revocation, renewal or refusal of licences and the placing of conditions on licences, the Council must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. In addition consideration must be given to whether the interference is proportionate.

Crime and Disorder Act 1998 Section 17

- 1.31 Section 17 of the Crime and Disorder Act 1998, places a duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

2. DRIVER LICENCES

Essential Requirements

- 2.1 The Council issues licences for Private Hire and Hackney Carriage drivers. In addition drivers may hold both licences and these are referred to as Dual licences.
- 2.2 Licences are issued (or renewed) subject to proof of eligibility, which is: -
- a) Aged 21 years or older at the time the licence is granted,
 - b) Appropriate driving licence,
 - c) At least 12 months driving experience since driving licence was granted,
 - d) Evidence of satisfactory completion of a driving assessment, approved by Hartlepool Borough Council, within 12 months of the first licence being granted. Failure to do so would result in a suspension of the licence until the assessment had been successfully completed,
 - e) Evidence of having a right to work in the UK
 - f) Knowledge/locality test,
 - g) Enhanced criminal records check,
 - h) Medical assessment,
 - i) Approved evidence of awareness of child and adult safeguarding issues
 - j) Ability to both speak, read and understand English to a reasonable standard
- 2.3 The statutory and practical criteria and qualifications for each licence are broadly identical and therefore the following requirements will apply to all driver licences. However where differences exist between the licensing regimes reference will be made to it in this policy.
- 2.4 **At all times, the Council's legitimate aim is to protect members of the public who are using vehicles and drivers licensed by the Council and thus if the documentation produced does not satisfy the Council then the application will be refused.**

Driving Experience

- 2.5 An applicant for the grant of a hackney carriage or private hire driver licence must have held a full DVLA driving licence for a period of at least 12 months before an application for the grant of a driver's licence will be accepted. This is a legal requirement under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976. Full driving licences issued by EEA states will also count towards this qualification requirement and equal recognition will also be given to Northern Ireland driving licences.
- 2.6 In addition, applicants are required to have passed a driving assessment,

approved by Hartlepool Borough Council, and produce the original pass certificate.

DVLA Driving Licences

- 2.7 In order to be satisfied that an applicant has a current DVLA driving licence and also to be aware of any penalty points on the licence, the Council will require access to the DVLA on-line licence checking system.
- 2.8 The DVLA requires the holder of the licence to give permission for access to driver records by providing the Council with a unique access code provided by the DVLA. Therefore, all drivers wishing to be licensed as a hackney carriage or private hire driver must either provide written consent or present to the Council an acceptable unique access code to allow their DVLA driving licence to be checked prior to a licence being approved.
- 2.9 For drivers other than those wishing to work within the taxi and private hire trade a valid driving licence issued anywhere within the European Union (EU) or European Economic Area (EEA), may be used by the licence holder until the age of 70, or for up to three years from the time they become resident in Great Britain (whichever is longer). After three years it must be exchanged for a GB licence. EU licences can only be renewed in the country in which the holder is resident. If a driver holds a licence from another EU country and renews it in Britain, it will be converted to a UK licence.
- 2.10 Any driver holding an EEA/EU driving licence will be required to exchange this licence for a photo card licence issued by the DVLA prior to the grant or renewal of Hackney Carriage or Private Hire driver licence.

Right to Work

- 2.11 The prevention of illegal migrant working in the UK is governed by legislation that may change from time to time. The Council will undertake the necessary checks required to comply with such legislation.
- 2.12 All applicants for a private hire operator and/or a private hire and hackney carriage driver licence will be required to prove that they have a right to work in the UK before being considered for a licence. In doing so, the Council may seek information regarding the immigration status of an individual from the relevant Agency.
- 2.13 For British applicants without a current British passport, a birth certificate which includes the name(s) of at least one of the holder's parents and proof of National Insurance number is required.
- 2.14 Applicants from Switzerland or one of the EEA countries have the right to work in the UK providing they can provide evidence of their right to work in the UK.

2.15 Applicants who are non EU nationals will have to provide proof of a right to work in the UK, a residence card and a passport before any application can be accepted.

2.16 **A licence will not be granted until an applicant is able to prove they have a right to work in the UK. Depending on the applicant's status checks may be made at each renewal process. All documentation will be copied and kept on the applicant's personal file. The responsibility to prove a right to work lies entirely with the applicant.**

Language Proficiency

2.17 All applicants must have a reasonable level of both spoken and written English.

Written English ability will be determined through the knowledge test and the driving assessment. Spoken English ability will be determined by Licensing Officers during the entirety of the licensing application process.

If there is any doubt as to an applicant's spoken English ability, they shall be required to undertake and pass a Council approved spoken English assessment.

Applicants Who Have Spent Time Abroad

2.18 If an applicant is newly resident in the UK they must still apply for an enhanced DBS check regardless of the period of time they have spent in the UK.

2.19 Where an applicant has spent 3 months or more living abroad or has not lived in the UK for a continuous six year period at the time of the application, an enhanced DBS disclosure in itself will usually be insufficient to satisfy the Council that the applicant is a fit and proper person. This is because the DBS does not routinely provide criminal record information from non UK countries. These applicants will be required to provide a Certificate of Good Conduct or an equivalent document, translated into English by a recognised, impartial body, from each country where they have been living. Any costs incurred must be met by the applicant.

2.20 A Certificate of Good Conduct or equivalent document is an extract from the judicial record or administrative authority in the relevant country testifying to good conduct and/or to any criminal convictions recorded against the individual. The Council will take advice from the DBS in identifying the appropriate authority where available.

2.21 The Council may approach the relevant Embassy or appropriate body directly to verify documents provided. Any costs involved must be met by the applicant.

- 2.22 The applicant is advised that the Council may require the submission of additional information with the application e.g. verifiable references from former employers and persons in positions of trust, which may demonstrate that they are a fit and proper person.
- 2.23 Existing licensed drivers must notify the Council in writing when they intend to leave the country for an extended period of 3 months or more. They must also notify the Council on their return and complete a statutory declaration on the form provided by the Council.
- 2.24 Information concerning Certificates of Good Conduct can be obtained by contacting the Council's Licensing Team.

Disclosure and Barring Service and Criminal Records

- 2.25 The Disclosure and Barring Service (DBS) helps employers and others make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.
- 2.26 The DBS are responsible for:
- a) processing requests for criminal records checks
 - b) deciding whether it is appropriate for a person to be placed on or removed from a barred list
 - c) placing or removing people from the DBS children's barred list and adults' barred list for England, Wales and Northern Ireland
- 2.27 Any person who is on the DBS Barred List will be deemed to be **not** a fit and proper person to hold a private hire and/or hackney carriage driver licence.
- 2.28 A criminal record check on a driver is an important safety measure for all drivers. Enhanced Disclosure through the DBS is required (applied for through the Council's Licensing Office). Enhanced disclosures include details of spent and unspent convictions, police cautions and Police intelligence.
- 2.29 The Rehabilitation of Offenders Act 1974 does **not** apply to applicants for hackney carriage or private hire driver licences by virtue of the Rehabilitation of Offenders Act 1974 (Exception) Order 1977 and therefore applicants are required to disclose all convictions, including those that would normally be regarded as spent.
- 2.30 Before an initial application for a driver's licence will be considered, the applicant must apply for an Enhanced Disclosure of criminal convictions through the Council. The application will not be determined until the results are received. DBS checks are generally not portable and only DBS checks applied for through Hartlepool Council's Licensing Team will be accepted unless an applicant registers with the Disclosure & Barring Service (DBS) Update Service for both Child and Adult Workforce criteria.

- 2.31 The Council is a Body registered with the DBS and can apply for the Disclosure at the applicant's request subject to the appropriate fee. Guidance notes (including proof of identity requirements) are available from the Licensing Office. The Council is bound by rules of confidentiality.
- 2.32 The disclosure report will be sent to the applicant's home address. The Council will NOT receive a copy of the report and the applicant must produce the entire original copy of the DBS certificate to the Licensing Office. **Photocopies or part disclosures will not be accepted.**
- 2.33 Once the certificate has been received it will be referred to an Authorised Officer for checking and if satisfactory, it will be returned immediately. If an officer is not available, the DBS disclosure will be securely stored until an Authorised Officer is able to check it, after which it will be returned to the applicant.
- 2.34 Any applicant for a new licence or renewal of licence is required to provide details of all criminal, motoring and licensing convictions including fixed penalties, spent convictions and cautions. It is an offence to knowingly or recklessly make a false statement or to omit information required by the Council (s.57 Local Government (Miscellaneous Provisions) Act 1976).
- 2.35 The application must be completed within 6 months of the issue date of the DBS certificate. If the DBS check is more than 6 months old the applicant will be required to obtain a new one before the application can be completed unless the applicant is registered through the DBS Update Service.
- 2.36 Applicants for renewal of a driver's licence are required to provide a suitable criminal record check through the DBS every three years or sooner if required to coincide with the renewal of a licence.

Relevance of Convictions, Cautions and Conduct

- 2.37 In assessing whether the applicant is a fit and proper person to hold a licence, the Council will consider each case on its own merits and will have regard to its adopted guidelines on the relevance of convictions which is available on request.

Driver Knowledge/Locality Test

- 2.38 In order to determine the fitness of a person to hold a licence, all applicants are required to sit and pass a test on their knowledge of licensing legislation, the local geography, driver conduct/conditions, Highway Code and awareness of Child Sexual Exploitation/ Safeguarding. Tests for hackney carriage drivers include the location of hackney carriage stands and knowledge of tariffs and charges. A driver licence will not be issued without the applicant first passing the knowledge test.
- 2.39 The fee for one knowledge test is currently included in the fee for a

licence. If an applicant fails to pass the test, a further fee will be charged for every subsequent test. Applicants are not permitted to sit a re-test without payment of the fee.

2.40 **Should an applicant fail to pass the knowledge test within five attempts, they will be required to wait for a period of at least six months before a further test may be re-booked.** This should provide the applicant with sufficient time to develop the necessary knowledge required in order to successfully undertake the knowledge test.

2.41 If an applicant fails to attend a test or attends late, a further test shall be required for which a charge will be made.

Medical Assessment

2.42 Under s.57 of the Local Government (Miscellaneous Provisions) Act 1976 the Council may require an applicant for a hackney carriage or private hire drivers licence to produce a medical examination report signed by a registered medical practitioner, who must have had access to the applicant's full medical records, to the effect that (s)he is physically fit to be a driver of such a vehicle. The Council requires a medical examination report upon an initial application for a licence. In addition the Council may require an applicant to submit to examination by a registered medical practitioner selected by the Council as to his/her fitness to be a driver of a hackney carriage or private hire vehicle.

2.43 In line with DVLA recommendations, the Council applies the DVLA Group II driver standard for medical fitness for hackney carriage and private hire drivers. This is a higher medical standard than that required for drivers of other motor vehicles and is required due to the length of time the driver may spend at the wheel and the responsibility they have for the safety of their passengers and the public. In addition drivers may have to assist disabled passengers and handle luggage.

2.44 The applicant is responsible for paying the fee for the examination. If necessary the GP may return the completed form direct to the Licensing Office. The medical certificate will be valid for a period of 6 months after which, if the drivers licence has not been issued, either a new medical certificate or a letter from the GP who carried out the original assessment confirming that there has been no change in the medical fitness of the applicant will be required. Once the medical is 12 months old a letter will not be accepted and a new medical will be required.

2.45 The medical practitioner must confirm that:

- a) they have examined the applicant;
- b) the applicant is registered with the practice; and/or
- c) they have had full and complete access to the applicant's full medical records;
- d) the medical examination was carried out to the Group II standard;
- e) (s)he considers the applicant to be fit to act as the driver of a hackney carriage or private hire vehicle in accordance with this

standard.

- 2.46 Applicants aged over 45 years must provide evidence of their medical fitness to hold a licence every five years and once they reach the age of 65 years an annual medical will be required.
- 2.47 If a driver has a medical condition that requires notification to the DVLA e.g. sleep apnoea they **must** also notify the Council in writing at the same time that DVLA is notified.
- 2.48 In addition to the above requirements where a driver suffers from a condition that requires monitoring but would not prevent him/her from driving (s)he is required to provide written confirmation from his GP or consultant, as recommended by the DVLA standards, each year that s/he remains fit to carry out the duties of a driver and/or may be required to submit an annual medical.
- 2.49 If the Licensing Authority is not satisfied as to the medical fitness of an applicant a hackney carriage or private hire drivers licence will not be granted. If the Licensing Authority is not satisfied as to the medical fitness of a licensed hackney carriage or private hire driver there will be reasonable cause to suspend, revoke or refuse to renew the licence under s.61 Local Government (Miscellaneous Provisions) Act 1976. This suspension may also be undertaken in accordance with s.52 of the Road Safety Act 2006 on the grounds of public safety. This means that the suspension takes immediate effect and although the driver may appeal they are unable to drive pending the appeal.
- 2.50 If the Licensing Authority has reason to suspect that a licensed driver may not be fit to continue to drive a licensed vehicle, the driver must undertake any reasonable test or medical examination as is required, within a reasonable time, as directed by the Licensing Authority.

Child Sexual Exploitation

- 2.51 In 2016 a requirement was imposed that all hackney carriage and private hire drivers must undergo approved training on the issue of Child Sexual Exploitation.
- 2.52 All new applicants shall be required to provide the licensing authority with evidence that this training has been completed before their licence will be granted.

Term of Licence

- 2.53 All driver licences will be valid for a maximum period of up to 3 years or such lesser period as the Council thinks appropriate.

National Register of Revocations & Refusals

- 2.54 Hartlepool Borough Council provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for

licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Therefore:

- Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of applying for/being granted a hackney carriage / PHV driver licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at https://www.hartlepool.gov.uk/info/20023/licences_and_permits/284/taxis.

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at data.protection@hartlepool.gov.uk. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website:
<https://ico.org.uk/make-a-complaint/>

2.55 **Conditions of Licence**

The legislation does not permit the Council to attach conditions to a hackney carriage driver's licence. Hackney carriage drivers will however be subject to the Council's byelaws which are detailed at **Appendix 1**.

The Council's conditions in respect of private hire drivers are detailed at **Appendix 2**.

2.56 **Code of Good Conduct**

This serves to promote the Council's licensing objectives (paragraph 1.7 (a) and (d) of this policy) in respect of hackney carriage and private hire licensing. The Code of Good Conduct will be taken into consideration in disciplinary matters. The Code of Conduct is attached at **Appendix 3** to this policy.

2.57 **Driver's Dress Code**

A dress code serves to enhance the professional image of the hackney carriage and private hire trade, and promotes the concept that drivers of licensed vehicles are vocational drivers. In order to raise the profile of the licensed trade, drivers should operate, at all times in a professional manner and conform to a minimum standard of dress. The Council's Dress Code for licensed drivers is detailed at **Appendix 4**. Failure to comply with the Dress Code may be taken into consideration in disciplinary matters.

3. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Essential Requirements

- 3.1 Before granting a vehicle licence the Council must be satisfied that the vehicle meets the following criteria:
- a) Is suitable in type, size and design for use as a licensed vehicle.
 - b) Is in a suitable mechanical condition.
 - c) Is safe.
 - d) Is comfortable.
 - e) Complies with all statutory requirements applicable to that vehicle
- 3.2 Prior to being licensed, and in order to demonstrate to the Council that all of the above requirements are met, the applicant must be able to satisfy the Council that the vehicle complies with all of the criteria detailed in Appendix 5 for hackney carriages and Appendix 6 for private hire vehicles.

Term of Licence

- 3.3 All vehicle licences will be valid for a maximum period of up to 12 months or such lesser period as the Council thinks appropriate.

Conditions of Licence – Vehicles

- 3.4 The conditions that apply to a vehicle once it has been licensed are detailed in **Appendix 5** (Hackney Carriages) and **Appendix 6** (Private Hire Vehicles).

Documents

- 3.5 A vehicle licence will only be issued where the vehicle has evidence of valid:
- i) V5 registration document (in the case of a new vehicle a sales invoice/documentation will suffice but the registration document must be produced within six weeks of the licence being issued)
 - ii) Road Fund Tax.
 - iii) Vehicle insurance certificate.
 - iv) Public Liability insurance certificate (minimum of £5 million).
 - v) Certificate of Compliance issued by Council's in house testing station.
 - vi) MOT certificate (if required by law)

All documentation produced must be an original document

- 3.6 Before, or on, the date a licence is required (including renewal), evidence of each of the above certificates shall be produced to an Authorised Officer.

Surrender and Grant of Licences

- 3.7 If a proprietor wishes to change the vehicle to which a licence relates (i.e. to change the vehicle but retain the vehicle licence number), the following procedures must be followed: -
- a) (S)he must complete an application form for the “new” vehicle.
 - b) (S)he must pay the relevant transfer fee.
 - c) (S)he must return the plates from the previous vehicle.
 - d) The new vehicle must be presented for test and subsequently pass.
 - e) (S)he must produce evidence of insurance and all other required documentation.
- 3.8 The expiry date on the ‘new vehicle’ licence will be 12 months from the grant of the ‘new’ licence.
- 3.9 Once surrendered the vehicle will not again be licensed by the Council unless it is under 4 years of age at the time the next application is made (or less than 5 years in respect of purpose built wheelchair accessible vehicles).

4. PRIVATE HIRE OPERATORS

Requirements and Obligations

- 4.1 Any person who operates private hire vehicles must apply to the Council for a private hire operator licence. The objective in licensing private hire operators is to ensure the protection of the public who will be using the operator's premises and the vehicles and drivers arranged through them.
- 4.2 A private hire vehicle may only be despatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.
- 4.3 A private hire operator must ensure that every private hire vehicle despatched by him is licensed and driven by a person who holds a private hire driver's licence issued by the Council. It is a criminal offence to operate a private hire vehicle and/or driver without an operator's licence.
- 4.4 Operators need to familiarise themselves with the law and ensure they employ suitable work methods in order to comply with the law and avoid committing licensing offences.
- 4.5 It is a condition of licence that the applicant operates from premises within the controlled district of the Council.
- 4.6 The Licensing Office may require sight of a business plan or request additional information for new applications.

Criminal Record Checks

- 4.7 Private Hire Operator licences can only be granted to persons that the Council are satisfied are fit and proper.
- 4.8 At the present time the Council is not able to obtain a DBS disclosure on applicants for Private Hire Operator licences and if the applicant is not a licensed driver reliance has to be placed on the information requested on the application form and any additional information if requested and during interview with the applicant. This is a position of trust as operators gain detailed knowledge as to a person's movements, travel arrangements etc.
- 4.9 Before an application for a Private Hire Operator licence will be considered the applicant must provide a certificate or search results on criminal convictions obtained within the last month which can be either:
 - a) a criminal conviction certificate issued under The Police Act 1997; or
 - b) the results of a subject access search under Data Protection Act 1998

of the Police National Computer by the National Identification Service.

For corporate applications, the above documentation will be required for each company director and the company secretary.

- 4.10 If the applicant is currently licensed as a driver with the Council they will be exempt from this requirement as they will have already undergone a DBS check.
- 4.11 Applicants for renewal of a Private Hire Operator licence who are not licensed as drivers will be required to provide a new certificate or search results every third year.
- 4.12 All new applicants for a Private Hire Operator licence shall be referred to the Licensing Committee for determination if the record of criminal convictions casts doubt on their fitness to be granted a licence.

Conditions

- 4.13 The Council has the power to impose such conditions on an operator's licence as it considers reasonably necessary.
- 4.14 **Appendix 8** sets out the legislation and policies pertinent to Private Hire Operators which cover the standards of service expected and the conditions to be attached to an operator licence.

Insurance

- 4.15 Applicants are required to produce proof of appropriate public liability insurance (£5 million).

Planning Consent

- 4.16 Applicants are required to obtain planning consent, where necessary, for the premises from which they intend to operate. The Planning Authority will be consulted as part of the application for a Private Hire Operator Licence and their comments may be taken into account when determining whether the licence should be granted. The Licensing Manager has the discretion to refer any application to the Licensing Committee.

Licence Duration

- 4.17 Licences will be issued for a maximum period of up to 5 years or such lesser period as the Council thinks appropriate.

Address from which an Operator may Operate

- 4.18 Upon grant of an operator's licence the Council will specify the address from which the operator may operate.
- 4.19 These premises **must be** in the controlled district of the Council, and will

be expected to have planning consent for use as a private hire office where deemed applicable. If an operator wishes to change the base from which they operate they must make a fresh application.

Record Keeping

- 4.20 Operators are required to keep records of each booking, including the name of the passenger, the destination, the name of the driver, the number of the vehicle and any fare quoted at the time of booking.
- 4.21 Records should be preserved for a period of not less than 12 months and be available for inspection at the request of an Officer of the Council or Police.

Change of Home Address

- 4.22 The operator must advise the Council in writing of any change of his home address within 7 days of such a change taking place.

Convictions/Cautions

- 4.23 The operator shall disclose to the Council in writing within 7 days of any conviction or caution (s)he receives.

Complaints

- 4.24 The operator must maintain written or computer records of all complaints received concerning a contract for hire or purported contract for hire relating to or arising from his/her business (including any sub-contracted work) and the action that was taken. These details shall be maintained for a minimum of six months and be made available to a licensing officer on request.
- 4.25 Where the Council becomes aware of any complaint and investigates it, the Operator shall comply with any reasonable request or directive issued by the investigating officer.

Material Change

- 4.26 A Private Hire Operator Licence is not transferable and operators must notify any proposed changes to the person(s) authorised to operate under the terms of the licence to the Council immediately in writing.

5. GENERAL

Fares & Fees

- 5.1 Councils have the power to set hackney carriage fares for journeys within their area. Hackney carriage fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.
- 5.2 The Council will review the table of fares annually or when requested by the Trade - usually in January of each year. When determining the level of fares consideration will be given to what is reasonable to expect the travelling public to pay as well as the need to give the owners/drivers an incentive to provide a service at all times it is needed.
- 5.3 A notice of any variation to the maximum fare will be advertised in a local newspaper with a date set 14 days from publication for making objections to the proposed variation. If no objections are received the fare variation will have effect on a day specified at the end of the 14 day consultation period. If any objections are received the matter will be referred to the Licensing Committee for consideration and, if appropriate, a further implementation date will be set.
- 5.4 **Meters installed in hackney carriages must be used for every journey undertaken within the Borough of Hartlepool – regardless of how the vehicle was hired. Drivers are free to charge their customer less than the final price indicated on the meter but cannot charge more. When a journey ends outside of the Council’s area a fare greater or lesser than that shown on the meter may be charged but only if an agreement has been made with the hirer in advance. In the absence of such an agreement, only the metered fare or lesser can be charged. Failure to comply is an offence.**
- 5.5 The Council is not able to set fares for private hire vehicles. It is a matter for negotiation between the hirer and operator at the time of booking and the operator should make this clear. When a hackney carriage vehicle is used for private hire services the fare charged cannot exceed that which would be charged under the table of fares applicable to hackney carriages.

Table of Fares

- 5.6 A table of fares will be provided to each hackney carriage licence holder, which must be displayed in each vehicle on the interior of the offside rear passenger window so that it is easily visible to all hirers. This requirement shall apply equally to private hire vehicles where a meter is fitted.

Receipts

- 5.7 A driver must, if requested by the hirer, provide a written receipt for the

fare paid.

Overcharging

- 5.8 All meters must be calibrated to the correct fare scale. It is an offence for the driver to demand more than the fare shown on the meter. If this should occur the driver may be prosecuted and/or their fitness to continue to hold a licence reviewed.

Fee Structure

- 5.9 The legislation provides that the fees charged should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands and administering the control and supervision of hackney carriages and private hire vehicles.
- 5.10 The current fees payable for the grant and renewal of hackney carriage and private hire licences are available from the Licensing Office and the Councils website.

Variations to Fee Structure

- 5.11 The fee structure is reviewed annually as part of the budgetary process. Notice of the current scale of fees will be supplied to new applicants at the time of application.
- 5.12 A notice of any variation to the fees in respect of vehicles and operators will be advertised in a local newspaper with a date set 28 days from publication for making objections to the variation of fees.
- 5.13 If no objections are received the fee variation will have immediate effect at the end of the 28 day consultation period (or at a later date as indicated by the Council). If any objections are received the matter will be considered by the Council.

Reduced Fees for Vehicle Licences

- 5.14 Where a vehicle will reach its 6th anniversary during the period of a licence a reduced fee will be calculated as follows: the current administration fee plus a daily rate for the number of days to be licensed.

HACKNEY CARRIAGE DRIVERS BYELAWS

Made under Section 68 of the Town Police Clauses Act, 1847, and Section 171 of the Public Health Act 1875, by the Borough of Hartlepool acting by the Council with respect to Hackney Carriages in the Borough of Hartlepool.

Interpretation

1. Throughout these byelaws “the Council” means the Borough of Hartlepool acting by the Council and “the district” means the Borough of Hartlepool.

Provisions regulating the manner in which the number of each Hackney Carriage, corresponding with the number of its licence, shall be displayed.

2. (i) The proprietor of a Hackney Carriage shall cause the plates provided by the Council specifying the number of the licence granted to him in respect of the carriage to be securely affixed to the outside and inside respectively of the carriage.
- (ii) A proprietor or driver of a Hackney Carriage shall:
 - (a) not wilfully or negligently cause or suffer any such number to be concealed from public view whilst the carriage is standing or plying for hire;
 - (b) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how Hackney Carriages are to be furnished or provided.

3. The proprietor of a Hackney Carriage shall:
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver,
 - (b) cause the roof or covering to be kept water-tight,
 - (c) provide any necessary windows and a means of opening and closing not less than one window on each side,
 - (d) cause the seats to be properly cushioned or covered,
 - (e) cause the floor to be provided with proper carpet, mat, or other suitable covering,
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service,

- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage,
- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use.

In the case of a motor Hackney Carriage,

- (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver,

In the case of a motor Hackney Carriage,

- (j) cause the words "HARTLEPOOL BOROUGH - LICENCED HACKNEY CARRIAGE" (in plain letters at least one inch in height) and a reproduction of a distinctive badge prescribed by the Council for this purpose to be legibly painted or marked on the outside of the nearside and offside panels of the carriage or in such alternative positions as are clearly visible from the nearside and offside of the carriage.

4. Every proprietor of a motor Hackney Carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say,

- (i) If the taximeter is fitted with a flag or other device bearing the words "FOR HIRE":-

- (a) the words "FOR HIRE" shall be exhibited on each side of the flag or other device in plain letters at least one and one half inches in height and the flag or other device shall be capable of being locked in a position in which the words are horizontal and legible;
- (b) when the flag or other device is so locked the machinery of the taximeter shall not be in action and the means of bringing it into action shall be by moving the flag or other device so that the words are not conveniently legible;
- (c) when the flag or other device is so locked that the aforesaid words are horizontal and legible no fare shall be recorded on the face of the taximeter.

- (ii) If the taximeter is not fitted with a flag or other device bearing the words "FOR HIRE":-

- (a) the taximeter shall be fitted with a key or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and no fare is recorded on the face of the taximeter;

- (iii) When the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take in pursuance of the bylaw on that behalf for the hire of the carriage by distance;
 - (iv) The word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
 - (v) The taximeter shall be so placed that all letters and figures on the face thereof may be at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be suitably illuminated during any period of hiring;
 - (vi) The taximeter and all fittings thereof shall be so affixed to the carriage with seals or other appliances affixed that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.
5. Every proprietor of a Hackney Carriage provided with a taximeter not fitted with a flag or other device bearing the words "FOR HIRE" shall cause the carriage to be provided with a sign so constructed as to comply with the following requirements, that is to say:
- (a) The sign,
 - (i) If it is illuminated and attached to the windscreen of the carriage shall bear the words "FOR HIRE" in plain letters at least one and one half inches in height.
 - (ii) In any other case shall bear the words "FOR HIRE" in plain letters at least two inches in height.
 - (b) The sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the carriage whether or not the carriage is for hire.

Provisions regulating the conduct of the proprietors and drivers of Hackney Carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.

6. Every driver of a Hackney Carriage shall:-
- (i) If the taximeter is fitted with a flag or other device bearing the words "FOR HIRE":-
 - (a) When standing or plying for hire keep such flag or other device locked in the position in which the words are horizontal and legible;
 - (ii) If the taximeter is not fitted with a flag or other device bearing the words "FOR HIRE":-

- (a) When standing or plying for hire keep the taximeter locked in the position in which no fare is recorded on the face of the taximeter and operate the sign provided in pursuance of bylaw 5 so that the words "FOR HIRE" are clearly and conveniently legible to persons outside the carriage;
 - (b) As soon as the carriage is hired whether by distance or by time, operate the said sign so that the words "FOR HIRE" are not conveniently legible to persons outside the carriage;
 - (c) As soon as the carriage is hired by distance, and before commencing the journey, bring the machinery or the taximeter into action by moving the key or other device fitted for the purpose so that the word "HIRED" is legible on the face of the taximeter;
 - (iii) Cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined in Section 82 of the Road Traffic Act 1972 and also any other time at the request of the hirer.
7. A proprietor or driver of a Hackney Carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
 8. The driver of a Hackney Carriage for which stands are fixed by any bylaw in that behalf shall, when plying for hire in any street and not actually hired.
 - (a) Proceed with reasonable speed to one of such stands,
 - (b) If a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand,
 - (c) On arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so to face the same direction,
 - (d) From time to time any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
 9. A proprietor or driver of a Hackney Carriage, when standing, or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
 10. The driver of a Hackney Carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
 11. The proprietor or driver of a Hackney Carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall,

unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

12. The driver of the Hackney Carriage when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.
13. A proprietor or driver of a Hackney Carriage shall not tamper with, or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
14. If a badge has been provided by the Council and delivered to the driver of a Hackney Carriage, either with the licence granted to him by the Council or afterwards, he shall, when standing, or plying, or driving for hire wear that badge in such position and manner as to be plainly and distinctly visible.
15. The driver of a Hackney Carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
 - (a) Convey a reasonable quantity of luggage.
 - (b) Afford reasonable assistance in loading and unloading.
 - (c) Afford reasonable assistance in removing it to and from the entrance of any house, station, or place at which he may take up or set down such person.

Provisions fixing the rates or fares, as well for time as distance, to be paid for Hackney Carriages within the district, and securing the due publication for such fares.

FARES FOR TIME

Provided that when a Hackney Carriage is hired by time, such fare shall be agreed with the hirer at the commencement of the hiring.

16. (1) The proprietor of a Hackney Carriage for which any fares are fixed by any bylaw in that behalf shall:
 - (a) Cause a statement of such fares to be painted or marked on the inside of the carriage, or on a plate affixed thereto, in clearly distinguishable letters and figures.
 - (b) Renew such letters and figures as often as is necessary to keep them clearly visible.
- (2) The proprietor or driver of a Hackney Carriage bearing a statement of fares in accordance with this bylaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and re-delivery of any property accidentally left in the Hackney Carriage, and fixing the charges to be made in respect thereof.

17. The proprietor or driver of a Hackney Carriage shall, immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
18. The proprietor or driver of a Hackney Carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him.
 - (1) Carry it within 24 hours, if not sooner claimed by or on behalf of its owner, to a police station in the district and leave it in the custody of the officer in charge of the office on his giving a receipt of it.
 - (2) Be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station where it was handed in whichever be the greater) but no more than five pounds.
19. The driver of a Hackney Carriage drawn by an animal or animals shall, whilst standing, plying or driving for hire, cause every part of the harness of the animal or animals drawing the carriage to be kept in order, so that the animal or animals shall be properly and securely attached to the carriage and under due control.
20. A proprietor or driver of a horse-drawn Hackney Carriage shall not in any street, feed or allow to be fed, any horse harnessed or otherwise attached to such a carriage, except with food contained in a proper bag or other receptacle suspended from the head of such horse or from the centre pole of the carriage, or which is held in and delivered with the hand of the person feeding such horse.
21. A proprietor or driver of a horse-drawn carriage shall not ply for hire during the hours between 11.00 pm and 9.00 am the following morning.

PENALTIES

22. Every person who shall offend against any of these bylaws shall be liable on summary conviction to a fine not exceeding twenty pounds and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction thereof.

PASSED under the COMMON SEAL of the
BOROUGH OF HARTLEPOOL this 5th day
of August, 1977 in the presence of: }

}
}

J W Mason

Mayor

N D Abram

Chief Executive

The foregoing bylaws are
hereby confirmed by the
Secretary of State and shall go
into operation on the 26th
September 1977

N J Moriarty
An Assistant Under Secretary of State

Home Office
Whitehall

23rd September 1977

N.B. The Taxi Ranks within Hartlepool are constantly changing. The following list is current at the time of this document being compiled.

LOCATION	CAPACITY	DURATION
Church Street (top)	6	8 pm - 4 am
Church Street (bottom)	6	8 pm - 4 am
Station Approach, East Side	3	24 hours
Station Approach, West Side	3	24 hours
Whitby Street	4	8 pm - 4 am
Seaton Carew (bus station)	3	24 hours
Avenue Road (Showroom)	3	8 pm - 4 am
Avenue Road (Civic)	8	24 hours
Swainson Street/Raby Road	8	24 hours
42nd Street, Lucan Street	2	8 pm - 4 am
Owton Manor Club, Wynyard Road	3	24 hours
King Johns Tavern, South Road	7	24 hours
Lucan Street (Rear Yates)	3	8 pm – 4 am
Villiers Street	3	8 am – 6 pm
Victoria Road	1	8 pm – 4 am

Hackney Carriage Drivers Licence
Extracts from The Town Police Clauses Act 1847

Section 46

No person shall act as the driver of any Hackney Carriage licensed in pursuance of this Act to ply for hire within the prescribed distance without first obtaining a licence from the District Council, which licence shall be registered by the District Council and such fee as the District Council may determine shall be paid for the same; and every such licence shall remain in force for one year.

Section 47

If any person acts as such driver as aforesaid without having first obtained such licence, or during the time that this licence is suspended, or if he lend or part with his licence, except to the proprietor of the Hackney Carriage, or if the proprietor of any such Hackney Carriage employ any person as the driver thereof who has not obtained such licence. or during the time that his licence is suspended, as hereinafter provided, every such driver and every such proprietor shall for every such offence respectively be liable to a penalty.

(This Section creates the offence of non-compliance with S46)

Section 53

A driver of a Hackney Carriage standing at any of the stands for Hackney Carriages appointed by the District Council, or in any street, who refuses or neglects, without reasonable excuse, to drive such carriage to any place within the prescribed distance, to which he is directed to drive by the person hiring or wishing to hire such carriage, shall for every offence be liable to a penalty.

Section 59

Any proprietor or driver of any such Hackney Carriage which is hired who permits or suffers any person to be carried in or upon or about such Hackney Carriage during such hire, without the express consent of the person hiring the same, shall be liable to a penalty.

Section 60

No person authorised by the proprietor of any Hackney Carriage to act as driver of such carriage shall suffer any other person to act as driver of such carriage without the consent of the proprietor thereof; and no person, whether licensed or to shall act as driver of any such carriage without the consent of the proprietor, and any person so suffering another person to act as driver, and any person so acting as driver without such consent as aforesaid, shall be liable to a penalty.

Extracts from
Local Government (Miscellaneous Provisions) Act 1976

Section 53

1. The driver of any Hackney Carriage licensed by a District Council shall at the request of any Authorised Officer of the Council or of any Constable produce for inspection his driver's licence either forthwith or:
 - (a) In the case of a request by an Authorised Officer, at the Principal Offices of the Council before the expiration of the period of five days beginning with the day following that on which the request is made.
 - (b) In the case of a request by a Constable, before the expiration of the period aforesaid at any Police Station which is within the area of the Council and is nominated by the driver when the request is made.
2. If any person without reasonable excuse contravenes the provisions of this Section, he shall be guilty of an offence.

Section 54

1.
 - a) A driver shall, at all times, when acting in accordance with the driver's licence granted to him wear such badge in such position and manner as to be plainly and distinctly visible.
 - b) If any person without reasonable excuse contravenes the provisions of this subsection, he shall be guilty of an offence.

Section 61

1. Notwithstanding anything in the Act of 1847 or this Part of this Act, a District Council may suspend or revoke or refuse an application therefore under section 46 of the Act of 1847 or section 51 of this Act as the case may be to renew the licence of a driver of a Hackney Carriage on any of the following grounds:
 - (a) that he has since the grant of the licence: -
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or

- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause.
- 2.
 - (a) Where a District Council suspend, revoke or refuse to renew any licence under this Section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the District Council the drivers badge issued to him in accordance with section 54 of this Act.
 - (b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level one on the standard scale.
- 3. Any driver aggrieved by a decision of a District Council under this Section may appeal to a Magistrates' Court.

Section 69

- 1. No person being the driver of a Hackney Carriage licensed by a District Council shall without reasonable cause unnecessarily prolong, in distance or in time, the journey for which the Hackney Carriage has been hired.
- 2. If any person contravenes the provisions of this Section he shall be guilty of an offence.

Section 73

- 1. Any person who:
 - (a) Wilfully obstructs an Authorised Officer or Constable acting in pursuance of this Part of this Act or the Act of 1847; or
 - (b) Without reasonable excuse fails to comply with any requirement properly made to him by such Officer or Constable under this Part of this Act; or
 - (c) Without reasonable cause fails to give such an officer or Constable so acting any other assistance or information which he may reasonably require of such person for the purpose of the performance of his functions under this Part of this Act or the Act of 1847;
 shall be guilty of an offence.

If any person, in giving any such information as is mentioned in the preceding subsection, makes any statement which he knows to be false, he shall be guilty of an offence.

Section 76

1. Any person who commits an offence against any of the provisions of this Part of the Act in respect of which no penalty is expressly provided shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PRIVATE HIRE DRIVER CONDITIONS

Change of Address

- PD1 Drivers must notify the Council, in writing, of any change of address during the period of the licence within 7 days of such a change taking place.

Conduct of Driver

- PD2 Drivers shall comply with the Code of Good Conduct for licensed drivers.

Convictions

- PD3 The driver shall within seven days of any arrest, charge, conviction, caution, reprimand or warning (relating to motoring and non-motoring convictions) notify the Council's licensing team in writing.

Driver's Badge

- PD4 A driver shall at all times when acting in accordance with the driver's licence granted to him wear such a badge in such position and manner as to be plainly and distinctly visible.

Equal Opportunities

- PD5 Drivers must at all times treat passengers or any potential passenger with courtesy and respect. Drivers must not discriminate against any person because of their race, colour, religion, sexual orientation, gender or disability.

Fare to be Demanded

- PD6 Drivers must not demand a fare greater than previously agreed with the passenger and the operator. If a taximeter is in use only the fare displayed, or a lesser fare, may be charged

Animals

- PD7 Drivers must not carry any animals in their vehicle other than those belonging to or in the care of their passenger(s). Any animal belonging to or in the care of any passenger should be carried in the rear of the vehicle only (except for guide, hearing or assistance dogs who are not restricted to the rear of the vehicle).

Lost Property

- PD8 When passengers have been dropped off the driver must check the vehicle for any property accidentally left there. If any is found it must be returned to the passenger or handed into a police station as soon as possible and no later than the end of that shift.

Medical Condition

- PD9 The Council must be immediately notified of any deterioration in the driver's medical condition that may affect their ability to drive private hire vehicles.

Passengers

- PD10 Drivers must not:
- a) carry more passengers in their vehicle than is permitted by the vehicle licence
 - b) carry more than one person in the front seat unless the vehicle is furnished with a bench type front seat 1270 mm or more in length between the doors and provided with seat belts for all front seat passengers. In this case no more than 2 passengers may be carried
 - c) without the consent of the hirer, carry any additional person in the vehicle.

Prompt Attendance

- PD11 Drivers must always pick up passengers on time unless unavoidably delayed. If a driver is to be delayed, they, or their operator, would be expected to notify the passenger of any delay as soon as possible.

Receipts

- PD12 The Driver must, if requested, provide the passenger(s) with a written receipt for the fare paid including the amount of VAT (if applicable) shown separately if so requested. The Driver should provide details of the journey including the date, fare, vehicle, operator and name of driver and sign the receipt.

Taximeters in PHVs

- PD13 If the private hire vehicle is fitted with a meter the driver:
- a) Must not cancel or conceal the fare recorded until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless credit is to be given).
 - b) Must ensure that when the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter

- must show no fare at any time.
- c) Must ensure that the meter is sufficiently illuminated when in use and is visible to all passengers.
 - d) Must ensure that the meter is only brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey.
 - e) Must ensure that the fare charged does not exceed the fare displayed on the meter at the end of the journey.

Drug and Alcohol Testing

- PD14 On those occasions where the licensing authority has reason to suspect that a driver may be abusing drugs or alcohol, the driver shall undertake drug or alcohol tests as required by the licensing authority, at the authority's expense, within a reasonable period of time or, if considered necessary by the licensing authority, as quickly as practicable.

CCTV & Other Recording Devices

- PD15 Drivers shall not video or record passengers other than through a CCTV system that has been installed specifically for the purposes of deterring or detecting crime and which complies with the requirements of the Data Protection Act. Any footage obtained of passengers must not be made publicly available other than to a law enforcement agency.

Drivers are in a possession of trust and passengers can expect complete privacy and discretion when hiring a licensed vehicle. For this reason, drivers must not photograph or otherwise record passengers in their vehicle, unless done so through a designated CCTV system where Data Protection requirements are being complied with. No still or moving images or audio recordings or transcripts of audio recordings must be made available on social media or by other means.

GC CODE OF GOOD CONDUCT FOR LICENSED DRIVERS

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

Failure to comply with this Code may be taken into account when assessing a driver's fitness to continue to hold a licence.

General

- GC1 Licensed drivers are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.

Responsibility to the Trade

- GC2 Licence holders shall endeavour to promote the image of the Hackney Carriage and Private Hire Trade by:
- a) Complying with this Code of Good Conduct
 - b) Complying with all the Conditions of their Licence and the Councils Hackney Carriage and Private Hire Licensing Policy
 - c) Behaving in a professional manner at all times

Responsibility to Clients

- GC3 Licence holders shall:
- a) Take all reasonable steps to ensure the safety of passengers while they are entering, travelling in or leaving the vehicle.
 - b) At all times treat passengers or any potential passenger with courtesy and respect.
 - c) Not engage in any dialogue or activities with a passenger that may, to any reasonable person, be considered offensive or inappropriate.
 - d) Maintain their vehicles in a safe and satisfactory condition at all times
 - e) Keep their vehicles clean and suitable for hire to the public at all times
 - f) Attend punctually when undertaking pre-booked hiring
 - g) Assist, where necessary, passengers into and out of vehicles
 - h) Offer passengers reasonable assistance with luggage and/or other bags
 - i) Offer assistance to elderly/infirm or disabled passengers

- j) Not smoke tobacco products, e-cigarettes or other similar nicotine delivery devices inside their vehicle at any time.

Responsibility to Residents

GC4 To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- a) Not sound the vehicle's horn
- b) Keep the volume of radio/cassette/CD player and VHF/digital radios to a minimum
- c) Switch off the engine if required to wait
- d) Take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood
- e) Not deposit any litter other than into a bin
- f) Not engage in any form of anti social behaviour

At hackney carriage ranks and other places where hackney carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:

- g) Rank in an orderly manner and proceed along the rank in order and promptly
- h) Remain in the vehicle

General

GC5 Drivers shall:

- a) Drive with care and due consideration for other road users and pedestrians
- b) Obey all Traffic Regulation Orders and directions at all time
- c) Comply with the rules and spirit of the Highway Code
- d) Ensure they do not smell of alcohol or drive whilst under the influence of alcohol
- e) Pay attention to personal hygiene and dress in accordance with the Dress Code
- f) Behave in a civil and orderly manner at all times
- g) Ensure that all passenger doors are unlocked immediately upon arrival at the destination or on any other occasion when the vehicle is stationary and the passenger asks to leave
- h) Cooperate fully during any investigation by an authorised officer

Drivers must not:

- i) Drive while having used illegal drugs or having used other medication that may have an impact on their ability to drive
- j) Engage in any dialogue or activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council. This includes inappropriate touching of passengers
- k) Not smoke tobacco products, e-cigarettes or other similar nicotine delivery devices inside their vehicle at any time

- l) Drink or eat in the vehicle at any time while carrying passengers
(best practice is for rest periods to be taken away from the vehicle)
- m) Play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle without the consent of the passenger
- n) Engage in any activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council

Smoking and E-Cigarettes

- GC6 It is against the law to smoke tobacco products in a licensed vehicle. In addition drivers shall not use an e-cigarette or other nicotine delivery device in a licensed vehicle at any time.

CCTV and Other Recording Devices

- GC7 Drivers are in a position of trust and passengers have a right to expect complete privacy and discretion when hiring a licensed vehicle.

Notwithstanding the following specific requirements/prohibitions, any actions by a licensed driver or operator that breach this right may have their fitness to continue as a driver or operator reassessed by the Council.

Drivers shall not video or record passengers other than through a CCTV system that has been installed specifically for the purposes of deterring or detecting crime and which complies with the requirements of the Data Protection Act. Any footage obtained of passengers must not be made publicly available other than to a law enforcement agency.

No still or moving images or audio recordings or transcripts of audio recordings must be made available on social media or by other means.

Please Note:

ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT

THE COUNCIL WILL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE CONSUMED ANY ALCOHOL OR HAVING MISUSED ANY DRUGS PRIOR TO OR WHILST IN CHARGE OF A LICENSED VEHICLE.

DC DRESS CODE

The purpose of a driver's dress code is to seek a standard of dress that provides a positive image of the hackney carriage and private hire trade in Hartlepool to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

Acceptable Standard of Dress

DC1 As a minimum standard, males should wear either long legged trousers or knee length shorts and T shirts which have a full body and short sleeves. Females should wear either long legged trousers, knee length shorts, skirt or dress and T shirts which have a full body and short sleeves.

Footwear

DC2 Footwear for all drivers shall be appropriate for safe driving.

Unacceptable Standard of Dress

DC3 The following are deemed to be unacceptable:

- a) Clothing that is not kept in a clean condition, free from holes and rips
- b) Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend
- c) Sportswear (e.g. football/rugby kits, track suits, beach wear etc.)
- d) Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel
- e) Drivers not having either the top or bottom half of their bodies suitably clothed
- f) No headwear, other than for religious purposes, or other items which partially or completely cover the head or face or identity of the licensed driver e.g. baseball caps and hoodies shall be worn other than when a uniform is worn for a special occasion.

HC HACKNEY CARRIAGE VEHICLE CONDITIONS

- HC1 The following details the essential criteria that must be met before a vehicle may be licensed as a hackney carriage and the ongoing requirements that must be maintained once a licence has been granted.
- HC2 A hackney carriage vehicle is a motor vehicle constructed or adapted to seat no more than 8 passengers (plus the driver) which is provided for hire with the services of a driver for the purpose of carrying passengers. Any vehicle used as a hackney carriage must be licensed under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- HC3 Before granting or renewing a vehicle licence the Council must be satisfied that the vehicle meets the following criteria:
- a) Is suitable in type, size and design for use as a hackney carriage.
 - b) Is in a suitable mechanical condition.
 - c) Is safe.
 - d) Is comfortable.
- HC4 All hackney carriages must:
- a) Be a specified shade of yellow in colour (unless exempted by the Council).
 - b) Be exceptionally well maintained to the standard prescribed by the Council
 - c) Be fitted with a roof sign (see condition H13)
 - d) Be fitted with a meter for the calculation of fares at the current approved rate and which has been properly tested and sealed.
 - e) Display the Council's licence plates, which must be securely attached to the exterior front and rear of the vehicle as prescribed by the Council.
 - f) Prominently display the Council's internal licence plate on either the dashboard or the top left corner of the windscreen
 - g) Display 'decals' issued by the Council attached centrally to both front doors of the vehicle

Engine/Chassis Numbers

- HC5 The Chassis/VIN plate and engine numbers must match the numbers recorded with the DVLA. Vehicle applications cannot be accepted without a copy of the vehicle registration document or, in the case of a new vehicle purchase, sales documentation indicating the engine and chassis numbers. Where the registration document is not provided at the time of initial licensing it must be provided within 6 weeks of the grant of licence. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the

Police who will undertake checks to ensure the vehicle is not stolen.

Specifications

HC6 The Department for Transport Best Practice Guidance recommends that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible. They are, however, encouraged to make use of the “type approval” rules within any specifications they determine.

All vehicles, therefore, shall have an appropriate ‘type approval’ which is either:

- a) European Whole Vehicle Type Approval
- b) British Individual Type Approval

Vehicle type approval is the confirmation that production samples of a design will meet specified technical, safety and performance standards. The specification of the vehicle is recorded and only that specification is approved.

All vehicles subject to new applications for hackney carriage vehicle licences, shall have M1 European Whole Vehicle Type Approval (EWVTA).

Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles.

Vehicles may also be licensed to carry fewer passengers subject to compliance with specifications relating to passenger comfort and vehicle conditions.

Insurance Write-Offs

HC7 Vehicles that have at any time been declared a Category A or B insurance ‘write off’ and/or have their V5 document endorsed as being ‘accident damaged’ will not be licensed. If a licensed vehicle is involved in an accident which results in the vehicle being declared a Category A or B insurance write off then the licence will be revoked and no further application to licence that vehicle will be permitted.

Internal Construction and Markings

HC8 a) Height (inside) – From the top of any part of the seat cushions to the roof at lowest part must not be less than 810 mm and, in every other respect must not be so constructed as to present any risk of injury or discomfort to any passenger. The definition of roof includes any

- parcel shelf, entertainment console or other fixing;
- b) Knee space – The measurement between the rear of the front seats at mid position and the back rest of the back seat must not be less than 760 mm
- c) Seats (length) – the shortest distance between the front and back of a seat (i.e. from the back rest to the front edge) must not be less than 450 mm
- d) In the case of rear facing seats, the distance between the backs of facing seats shall not be less than 1520 mm. In all other cases the distance between the back rest of the seat and any facing obstruction must not be less than 760 mm
- e) Seats (width) – The shortest distance between the edges of the seats shall be no less than 400 mm. Where the rear passenger seating is divided into individual seats by way of formed cushions or other similar divide and, in the opinion of an authorised officer, affect the comfort of the passenger, the above measurement shall be ascertained by measuring the distance between the seatbelt anchorages.
- f) Seats, seat covers, floor coverings and interior trims shall be free from tears, damage, grease and other contamination;
- g) Interior lighting operated either automatically when the passenger or rear doors are opened or by a separate switch operated by the driver.
- h) An illuminated luggage compartment, which in the case of mini bus type vehicles must be segregated internal space with a minimum capacity of 0.566 cubic metres
- i) An internal plate (as provided by the Council) shall be fixed and displayed inside the vehicle in a clear and unobstructed location so that the particulars thereon are clearly visible to passengers
- j) No fittings or signs (except for legitimate advertising) shall be attached to the inside of the vehicle unless approved by the Council.

External Construction and Markings

HC9

Licensed vehicles must at all times be maintained in a good condition and be kept clean and tidy. This includes the following examples which are for reference purposes only and do not constitute a definitive list of matters that may be considered relevant to evaluate whether a vehicle is on a good condition: -

- a) Bodyshell/paintwork – free from rust, broken metal and other visible damage
- b) Door hinges shall be in good working order and be seated correctly when closed
- c) Windscreen and windows shall be in good clean condition and free from damage
- d) Free from oil leaks
- e) Be kept clean and tidy at all times
- f) Not be a convertible
- g) Not be fitted with a roof rack

Wheelchair Accessible Vehicles

HC10 The Council recognises the needs of people with disabilities and reminds the taxi trade of the legal requirement to provide equality in the provision of all of their services.

In order to ensure that there are sufficient suitable vehicles available that can meet the needs of those who must travel in their wheelchair, Hartlepool Borough Council requires that all new hackney carriages (as defined below) shall be 'wheelchair accessible'.

A 'new hackney carriage' for the purposes of this condition means a vehicle presented for licensing in Hartlepool for the first time and which is not a replacement of a vehicle already licensed as a hackney carriage in Hartlepool.

If the vehicle to be replaced is a wheelchair accessible vehicle, it must be replaced by another wheelchair accessible vehicle.

A 'wheelchair accessible' vehicle is a vehicle that is designed and constructed to allow a passenger to be transported without them having to leave their wheelchair either before, during or after their journey (i.e. a passenger should be able to stay seated in their wheelchair whilst it is loaded onto the vehicle; should be able to stay seated in their wheelchair during their journey; and be able to remain seated in their wheelchair as it is unloaded from the vehicle).

HC11 The Council will license both purpose built wheelchair accessible vehicles and vehicles that are suitable in size and design, and have been converted or adapted after the date of first registration to enable the carriage of a wheelchair. **This is provided that the conversion is carried out by an approved vehicle convertor such as the Wheelchair Accessible Vehicle Converters' Association and a certificate of fitting provided by the convertor is supplied as an original document.**

Where the vehicle is a rear or side loading wheelchair accessible vehicle a suitable ramp or lift must be carried in the vehicle at all times.

The proprietor of a wheelchair accessible hackney carriage shall ensure that the collection and delivery of wheelchair users takes place at safe and appropriate locations.

The Council expects proprietors to ensure that their drivers are familiar with the correct means of securing wheelchairs and their passengers in such vehicles.

Colour

HC12 All hackney carriages must be professionally painted to a non-standard production shade of yellow detailed below including all previously colour

coded external trims, boot, door edges and frames

- Landrover AA yellow, Octoral No RO1000 FMB/LRC559
- Fiat Giallo Ginestra 2C, Octoral No F1258:93

Roof Signs

HC13 There is a general requirement that hackney carriages must have a roof sign that is a minimum of 600 mm (24 inches) in length affixed to the roof whenever the vehicle is in the Borough of Hartlepool and this must be illuminated when the vehicle is available for hire.

In order to allow hackney carriages to be more efficient, and environmentally friendly, an *allowance* has been made for the roof sign to be removed when the vehicle is undertaking a booking that takes it outside Hartlepool.

If the roof sign is not affixed to the vehicle, whilst in Hartlepool, the driver of the vehicle must be able to demonstrate to a licensing officer, on request, that the vehicle is, at that time, engaged in an 'out of town' booking. Please see condition HC 18 below.

Any failure of a driver to do so will result in this allowance being removed in respect of that vehicle.

Magnetic or other temporary roof signs must be made of suitable and appropriate materials, and attached in such a manner, as to be safe for passengers, pedestrians and other road users.

Spare Tyres

HC14 Vehicles shall have a spare wheel to fit the vehicle and equipment to change a wheel on the vehicle with that wheel e.g. a jack and wheel brace. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:

- i) The carriage of passengers is not permitted whilst such a tyre is fitted
- ii) The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.
- iii) The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.
Due to the speed restriction and the fact that the tyre compound is generally softer (to simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.
- iv) The use of pressurised tyre sealants will not be permitted in any

circumstances

In addition tyres on the same axle must be of the same nominal size and aspect ratio

Alteration of Vehicle

- HC15 The proprietor must not change the design or condition of the vehicle without first obtaining the written approval of the Council.

Number of Passengers to be carried

- HC16 A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in the vehicle, any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

Fire Extinguishers

- HC17 If carrying a fire extinguisher it must be of suitable size and type and be in good working order.

CCTV In Vehicles

- HC18 The Department for Transport Best Practice Guidance recommends that licensing authorities look sympathetically on or even actively encourage the installation of security measures such as a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers. It is not currently proposed that such measures should be required as part of the licensing regime at this time, and it is considered that they are best left to the judgement of the owners and drivers themselves.

If CCTV is installed, the proprietor of any vehicle with CCTV must display a sign approved by the Council advising passengers that a CCTV system is in operation in the vehicle.

Any reports of misuse of CCTV or recorded images may result in the immediate referral to the Licensing Committee with a view to suspending both the vehicle and driver licences.¹

Booking Records

¹ The Information Commissioners Office (ICO) states that CCTV in Hackney Carriages and Private Hire Vehicles is covered by the Data Protection Act and as such, conversations between members of the public must not be recorded on CCTV during the normal course of a journey where images are being recorded. (There are some specific exceptions to this, such as a panic button in a taxi cab)

HC19 When carrying out pre-booked work the vehicle shall be used predominantly for journeys that will either begin or end in Hartlepool.

The word 'predominantly' shall mean 90% of all pre-booked work within any continuous 7 day period. **All** pre-booked work shall be recorded and made available to authorised officers on request: -

- a) In a suitable form in a continuous, chronological order, the pages of which are consecutively numbered, or
- b) On a computer which keeps backup records and is immediately capable of producing a printed record from the computer onto paper. Records must not be capable of retrospective alteration or amendment, and
- c) The driver must enter, before the commencement of each journey, the following particulars of every booking by him/her, the:
 - Name and address of the hirer
 - Date, time and pickup point of the booking;
 - Destination;
 - Number of passengers to be carried;
 - When and how the booking was made i.e. telephone, personal call;
 - Amount to be charged; (where applicable)

If the pre-booking is part of a contract i.e. education/school run then proof of the contract must be kept and made available to a licensing officer on request.

Cleanliness

HC20 The proprietor must ensure that the hackney carriage is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

Licence Plates

- HC21
- a) The front and rear identification plates, supplied by the Council, shall be securely fixed to the front and rear of the vehicle; in a conspicuous position approved by an authorised officer of the Council, using bolts or screws, or other method with written approval of the Council, in such a manner as to be easily removable by an authorised officer or constable.
 - b) The internal licence plate shall be securely fixed to the dashboard or top near side of the windscreen of the vehicle so that it can be easily seen by passengers situated in both the front and rear passenger seats.
 - c) There shall be permanently affixed to each front door of the vehicle, in a central location, a decal issued by the Council that contains the vehicle plate number.

Meter/Table of Fares

- HC22 All hackney carriages shall be fitted with a taximeter that complies with the Measuring Instruments (Taximeters) Regulations 2006 type which is locked and sealed by an approved manufacturer/suppliers and/or installer

Sliding Doors

- HC23 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in motion and carrying passengers. The opening and closing mechanism shall not be altered so as to prevent the doors from locking into the open position

Swivel Seats

- HC24 Where fitted as a passenger seat, certificates of fitting from an authorised fitter must be obtained and produced to the Council before a vehicle can be tested and/or licensed.

Tinted Windows

- HC25 Hartlepool BC has a duty to protect children and young people from all forms abuse including, amongst other things, trafficking and Child Sexual Exploitation (CSE).

As the licensing authority for hackney carriages and private hire vehicles, the Council believes it is important that any children or young people using such vehicles can be safe and feel safe.

To help ensure this, the Council considers that it is reasonable and proportionate to take steps to ensure that children and young people remain visible once they have entered a licensed vehicle – or to put it another way, that they do not become invisible.

This can be partly achieved by ensuring that front and rear windows allow a minimum amount of light to pass through – thereby allowing front and rear passengers to be seen from outside the vehicle.

The Council's specification relating to the use of tinted windows in licensed vehicles is as follows: -

- a) The windscreen shall have a minimum light transmission of 75%
- b) All other front windows of the vehicle shall have a minimum of 70% light transmission, unless the following criteria can be met in which case there will be no minimum light transmission.
- c) All rear windows of the vehicle shall have a minimum of 30% light transmission, unless the following criteria can be met in which case there will be no minimum light transmission.

The minimum light transmission criteria is relaxed in the following circumstances:

- a) The windscreenⁱ and front side windows² of any vehicle exempt from the criteria, when the vehicle is an executive hire or novelty hire vehicle or stretched limousine operating under an Exemption Notice, and
- b) The vehicle will not be engaged at all in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years unless accompanied by an adult other than the driver). The driver must not act as the accompanying adult, and
- c) Written approval has been given by the Council.

NB any exemption granted by the council does not remove the need for compliance with the relevant Construction and Use Regulations.

No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass

Advertisements, Signs, Notices etc.

HC26

Signs, notices or advertisements must not be of a content that the Licensing Officer deems to be offensive or abusive. Further guidance as to the content of the advert may be sought from the Advertisement Standards Authority, www.asa.org.uk

No advertising on vehicles shall:

- a) Be affixed to any window of the vehicle.
- b) Be affixed to any door or panel on which the Council issued roundel or sign is located.
- c) Promote tobacco products
- d) Promote alcoholic products without the prominent disclaimer 'Please Drink Responsibly'
- e) Be offensive or misleading in nature or character. As this matter is subjective, the decision of the licensing officer shall be deemed final

Advertisements shall be constructed of such robust design and materials, and fitted professionally, as to be capable of retaining high standards of appearance. Any vehicles displaying advertisements considered by the Licensing Officer to fall below such a high quality will be suspended until the advertisement is either removed or satisfactorily repaired.

If advertising is situated in the interior of the vehicle it shall be subject to

the proviso that it does not detrimentally affect the safety or comfort of passengers and does not cause offence to passengers carried within the vehicle (in the opinion of the Licensing Officer).

Reasonable steps must be taken to allow the colour of the vehicle to remain predominantly yellow in colour. For example, if the proposed advertisement is not dependent upon a particular background colour, the colour adopted should be yellow. If necessary, the burden will be on the applicant to demonstrate to the Council that yellow could not be retained as the predominant colour of the vehicle.

No illuminated or fluorescent sign, other than the 'Taxi' roof sign, shall be displayed on the roof of the vehicle.

Any queries regarding advertisements must be referred to the Council prior to them being placed on a vehicle.

Insurance

HC27 All vehicles must have at all times a current valid policy of motor insurance appropriate to the local authority licence being held and public liability insurance (minimum £5 million). This policy must be in place before a licence can be granted.

It is an offence to drive a vehicle without the appropriate insurance in place. Requests to produce insurance may be made during the term of the licence. These requests must be complied with in accordance with the time scales stipulated in the request.

If a vehicle is off the road and uninsured the proprietor must advise the Licensing Office in writing immediately or in any event within 72 hours.

Age Restriction

HC28 When a vehicle licence is first granted it must be under 4 years old (i.e. from date of first registration).

The above age restriction shall not apply where a licensed vehicle is converted from one type of licensed vehicle to another, provided the vehicle licence in respect of the initial vehicle licence is surrendered. The vehicle must be altered so as to comply fully with the requirements of the prospective licence in respect of the fitness, suitability, colour, size and type of vehicle, and any obligatory fixtures and fittings.

Vehicle licences will normally only be renewed up to 6 years old (except for purpose built wheelchair accessible vehicles such as London Cabs which may be licensed up to 13 years of age).

Vehicles which meet the Council's "exceptionally well maintained" criteria may be licensed for longer periods.

For a vehicle to be regarded as being 'exceptionally well maintained' it will be for the vehicle proprietor to demonstrate to the licensing authority that the vehicle has been exceptionally well maintained throughout its lifetime.

Matters to be taken into account when determining whether a vehicle has been exceptionally well maintained will include, but are not limited to: -

- a) History of mechanical checks and the number and nature of any failures
- b) History of visual appearance checks carried out by licensing officers
- c) History of spot checks carried out by licensing officers
- d) Accident history of the vehicle

Applications for an extension of the age policy must be made in writing to the Licensing Team, accompanied by the relevant fee, a minimum of 14 days prior to the expiry of the current licence.

Change of Address

- HC29 The proprietor shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place.

Loss/Theft of Licence Plate

- HC30 The proprietor must report the loss/theft of licence plate(s) to the Licensing Office as soon as the loss becomes known and in any case, within 2 working days.

Surrender of licence

- HC31 A vehicle licence may be surrendered at any time and any refund of licence fee will be calculated as a pro rata daily rate on the number of days licence remaining, plus and any mechanical inspections not yet undertaken less the administration fee.

PH PRIVATE HIRE VEHICLE CONDITIONS

PH1 The following details the essential criteria that must be met before a vehicle may be licensed as a private hire vehicle and the ongoing requirements that must be maintained once a licence has been granted.

A private hire vehicle is a motor vehicle constructed or adapted to seat no more than 8 passengers (plus the driver) which is provided for hire with the services of a driver for the purpose of carrying passengers. Every hiring for a private hire vehicle must be pre-booked through a licensed private hire operator. Any vehicle used as a private hire vehicle must be licensed under the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

Before granting or renewing a vehicle licence the Council must be satisfied that the vehicle meets the following criteria:

- a) Is suitable in type, size and design for use as a private hire vehicle.
- b) Is in a suitable mechanical condition.
- c) Is safe
- d) Is comfortable

Conditions

PH2 All private hire vehicles must:

- a) Be any colour other than yellow.
- b) Be exceptionally well maintained to the standard prescribed by the Council
- c) Not be fitted with a roof sign
- d) If, fitted with a meter for the calculation of fares, the meter must be properly tested and sealed.
- e) Display the Council's licence plates, which must be securely attached to the exterior front and rear of the vehicle as prescribed by the Council.
- f) Prominently display the Council's internal licence plate on either the dashboard or the top left corner of the windscreen
- g) Display 'decals' issued by the Council attached centrally to both front doors of the vehicle

Engine/Chassis Numbers

PH3 The Chassis/VIN plate and engine numbers must match the numbers recorded with the DVLA. Vehicle applications cannot be accepted without a copy of the vehicle registration document or, in the case of a new vehicle purchase, sales documentation indicating the engine and chassis numbers. Where the registration document is not provided at the time of initial licensing it must be provided within 6 weeks of the

grant of licence. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police who will undertake checks to ensure the vehicle is not stolen.

Specifications

PH4 The Department for Transport Best Practice Guidance recommends that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible. They are, however, encouraged to make use of the “type approval” rules within any specifications they determine.

All vehicles, therefore, shall have an appropriate ‘type approval’ which is either:

a) European Whole Vehicle Type Approval

b) British Individual Type Approval

Vehicle type approval is the confirmation that production samples of a design will meet specified technical, safety and performance standards. The specification of the vehicle is recorded and only that specification is approved.

All vehicles subject to new applications for hackney carriage vehicle licences, shall have M1 European Whole Vehicle Type Approval (EWVTA).

Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles.

Vehicles may also be licensed to carry fewer passengers subject to compliance with specifications relating to passenger comfort and vehicle conditions.

Insurance Write-Offs

PH5 Vehicles that have at any time been declared a Category A or B insurance ‘write off’ and/or have their V5 document endorsed as being ‘accident damaged’ will not be licensed. If a licensed vehicle is involved in an accident which results in the vehicle being declared a Category A or B insurance write off then the licence will be revoked and no further application to licence the vehicle will be permitted.

Internal Construction and Markings

PH5 a) Height (inside) – From the top of any part of the seat cushions to the

roof at lowest part must not be less than 810 mm and, in every other respect must not be so constructed as to present any risk of injury or discomfort to any passenger. The definition of roof includes any parcel shelf, entertainment console or other fixing;

- b) Knee space – The measurement between the rear of the front seats at mid position and the back rest of the back seat must not be less than 760 mm
- c) Seats (length) – the shortest distance between the front and back of a seat (i.e. from the back rest to the front edge) must not be less than 450 mm
- d) In the case of rear facing seats, the distance between the backs of facing seats shall not be less than 1520 mm. In all other cases the distance between the back rest of the seat and any facing obstruction must not be less than 760 mm
- e) Seats (width) – The shortest distance between the edges of the seats shall be no less than 400 mm. Where the rear passenger seating is divided into individual seats by way of formed cushions or other similar divide and, in the opinion of an authorised officer, affect the comfort of the passenger, the above measurement shall be ascertained by measuring the distance between the seatbelt anchorages.
- f) Seats, seat covers, floor coverings and interior trims shall be free from tears, damage, grease and other contamination;
- g) Interior lighting operated either automatically when the passenger or rear doors are opened or by a separate switch operated by the driver.
- h) An illuminated luggage compartment, which in the case of mini bus type vehicles must be segregated internal space with a minimum capacity of 0.566 cubic metres
- i) An internal plate (as provided by the Council) shall be fixed and displayed inside the vehicle in a clear and unobstructed location so that the particulars thereon are clearly visible to passengers
- j) No fittings or signs (except for legitimate advertising) shall be attached to the inside of the vehicle unless approved by the Council.

External Construction and Markings

PH6

Licensed vehicles must at all times be maintained in a good condition and be kept clean and tidy. This includes the following examples which are for reference purposes only and do not constitute a definitive list of matters that may be considered relevant to evaluate whether a vehicle is in a good condition: -

- a) Bodyshell/paintwork – free from rust, broken metal and other visible damage
- b) Door hinges shall be in good working order and be seated correctly when closed
- c) Windscreen and windows shall be in good clean condition and free from damage
- d) Free from oil leaks
- e) Be kept clean and tidy at all times

- f) Not be a convertible
- g) Not be fitted with a roof rack
- h) Be of uniform colour

Wheelchair Accessible Vehicles

PH7 The Council will license both purpose built wheelchair accessible vehicles and vehicles that are suitable in size and design, and have been converted or adapted after the date of first registration to enable the carriage of a wheelchair. **This is provided that the conversion is carried out by an approved vehicle convertor such as the Wheelchair Accessible Vehicle Converters' Association and a certificate of fitting provided by the convertor is supplied as an original document.**

Where the vehicle is a rear or side loading wheelchair accessible vehicle a suitable ramp or lift must be carried in the vehicle at all times.

The Council expects proprietors to ensure that their drivers are familiar with the correct means of securing wheelchairs and their passengers in such vehicles.

Spare Tyres

PH8 Vehicles shall have a spare wheel to fit the vehicle and equipment to change a wheel on the vehicle with that wheel e.g. a jack and wheel brace. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:

- i) The carriage of passengers is not permitted whilst such a tyre is fitted
- ii) The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.
- iii) The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.
Due to the speed restriction and the fact that the tyre compound is generally softer (to simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.
- iv) The use of pressurised tyre sealants will not be permitted in any circumstances

In addition tyres on the same axle must be of the same nominal size and aspect ratio

Alteration of Vehicle

- PH9 The proprietor must not change the design or condition of the vehicle without first obtaining the written approval of the Council.

Number of Passengers to be carried

- PH10 A proprietor or driver of a private hire vehicle shall not convey or permit to be conveyed in the vehicle, any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

Fire Extinguishers

- PH11 If carrying a fire extinguisher it must be of suitable size and type and be in good working order.

CCTV In Vehicles

- PH12 The Department for Transport Best Practice Guidance recommends that licensing authorities look sympathetically on or even actively encourage the installation of security measures such as a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers. It is not currently proposed that such measures should be required as part of the licensing regime at this time, and it is considered that they are best left to the judgement of the owners and drivers themselves.

If CCTV is installed, the proprietor of any vehicle with CCTV must display a sign approved by the Council advising passengers that a CCTV system is in operation in the vehicle.

Any reports of misuse of CCTV or recorded images may result in the immediate referral to the Licensing Committee with a view to suspending both the vehicle and driver licences.³

Cleanliness

- PH13 The proprietor must ensure that the private hire vehicle is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

³ The Information Commissioners Office (ICO) states that CCTV in Hackney Carriages and Private Hire Vehicles is covered by the Data Protection Act and as such, conversations between members of the public must not be recorded on CCTV during the normal course of a journey where images are being recorded. (There are some specific exceptions to this, such as a panic button in a taxi cab)

Licence Plates

- PH14
- a) The front and rear identification plates, supplied by the Council, shall be securely fixed to the front and rear of the vehicle; in a conspicuous position approved by an authorised officer of the Council, using bolts or screws, or other method with written approval of the Council, in such a manner as to be easily removable by an authorised officer or constable
 - b) The internal licence plate shall be securely fixed to the dashboard or top near side of the windscreen of the vehicle so that it can be easily seen by passengers situated in both the front and rear passenger seats
 - c) There shall be permanently affixed to each front door of the vehicle, in a central location, a decal issued by the Council that contains the vehicle plate number.

Meter/Table of Fares

PH15 All private hire vehicles fitted with a taximeter shall comply with the Measuring Instruments (Taximeters) Regulations 2006 type which is locked and sealed by an approved manufacturer/suppliers and/or installer. The meter must:

- a) Be installed into the vehicle in a suitable and secure manner at all times
- b) Be accurate, be capable of showing that the vehicle is or is not hired, register the charge if hired and be positioned in clear view of the passengers
- c) Be sufficiently illuminated when in use and visible to all passengers.
- d) Only be brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey.

The fare charged must not exceed the fare displayed on the meter at the end of the journey.

When the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter must show no fare at any time.

A notice showing the Tariff of fares must be displayed inside the vehicle in the top off side rear window where any passengers can easily read it.

Sliding Doors

PH16 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in motion and carrying passengers. The opening and closing mechanism shall not be altered so as to prevent the doors from locking into the open position

Swivel Seats

- PH17 Where fitted as a passenger seat, certificates of fitting from an authorised fitter must be obtained and produced to the Council before a vehicle can be tested and/or licensed.

Tinted Windows

- PH18 Hartlepool BC has a duty to protect children and young people from all forms abuse including, amongst other things, trafficking and Child Sexual Exploitation (CSE).

As the licensing authority for hackney carriages and private hire vehicles, the Council believes it is important that any children or young people using such vehicles can be safe and feel safe.

To help ensure this, the Council considers that it is reasonable and proportionate to take steps to ensure that children and young people remain visible once they have entered a licensed vehicle – or to put it another way, that they do not become invisible.

This can be partly achieved by ensuring that front and rear windows allow a minimum amount of light to pass through – thereby allowing front and rear passengers to be seen from outside the vehicle.

The Council's specification relating to the use of tinted windows in licensed vehicles is as follows: -

- a) The windscreen shall have a minimum light transmission of 75%
- b) All other front windows of the vehicle shall have a minimum of 70% light transmission, unless the following criteria can be met in which case there will be no minimum light transmission.
- c) All rear windows of the vehicle shall have a minimum of 30% light transmission, unless the following criteria can be met in which case there will be no minimum light transmission.

The minimum light transmission criteria is relaxed in the following circumstances:

- c) The windscreen⁴ and front side windows⁵ of any vehicle exempt from the criteria, when the vehicle is an executive hire or novelty hire vehicle or stretched limousine operating under an Exemption Notice, and
- d) The vehicle will not be engaged at all in any contract or provision of

⁴ The front windscreen must let at least 75% of light through.

⁵ the front side windows must let at least 70% of light through

vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years unless accompanied by an adult other than the driver). The driver must not act as the accompanying adult, and

e) Written approval has been given by the Council.

NB any exemption granted by the council does not remove the need for compliance with the relevant Construction and Use Regulations.

No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass

Advertisements, Signs, Notices etc.

PH19

Signs, notices or advertisements must not be of a content that the Licensing Officer deems to be offensive or abusive. Further guidance as to the content of the advert may be sought from the Advertisement Standards Authority, www.asa.org.uk

No advertising on vehicles shall:

- a) Be affixed to any window of the vehicle.
- b) Be affixed to any door or panel on which the Council issued decal or sign is located.
- c) Be affixed to any part of the interior or exterior of any private hire vehicle operating under an Exemption Notice
- d) Promote tobacco products
- e) Promote alcoholic products without the prominent disclaimer 'Please Drink Responsibly'
- f) Be offensive or misleading in nature or character. As this matter is subjective, the decision of the licensing officer shall be deemed final

Advertisements shall be constructed of such robust design and materials, and fitted professionally, as to be capable of retaining high standards of appearance. Any vehicles displaying advertisements considered by the Licensing Officer to fall below such a high quality will be suspended until the advertisement is either removed or satisfactorily repaired.

If advertising is situated in the interior of the vehicle it shall be subject to the proviso that it does not detrimentally affect the safety or comfort of passengers and does not cause offence to passengers carried within the vehicle (in the opinion of the Licensing Officer).

Private hire vehicles must not display signage that may give the impression that the vehicle is a hackney carriage.

Any queries regarding advertisements must be referred to the Council prior to them being placed on a vehicle.

Insurance

PH20 All vehicles must have at all times a current valid policy of motor insurance appropriate to the local authority licence being held and public liability insurance (minimum £5 million). This policy must be in place before a licence can be granted.

Certificates for private hire vehicles are not acceptable if they include cover for public hire purposes.

It is an offence to drive a vehicle without the appropriate insurance in place. Requests to produce insurance may be made during the term of the licence. These requests must be complied with in accordance with the time scales stipulated in the request.

If a vehicle is off the road and uninsured the proprietor must advise the Licensing Office in writing immediately or in any event within 72 hours.

Age Restriction

PH21 When a vehicle licence is first granted it must be under 4 years old (i.e. from date of first registration).

Vehicle licences will normally only be renewed up to 6 years old (except for purpose built wheelchair accessible vehicles such as London Cabs which may be licensed up to 13 years of age).

Vehicles which meet the Council's "exceptionally well maintained" criteria may be licensed for longer periods.

For a vehicle to be regarded as being 'exceptionally well maintained' it will be for the vehicle proprietor to demonstrate to the licensing authority that the vehicle has been exceptionally well maintained throughout its lifetime.

Matters to be taken into account when determining whether a vehicle has been exceptionally well maintained will include: -

- a) History of mechanical checks and the number and nature of any failures
- b) History of visual appearance checks carried out by licensing officers
- c) History of spot checks carried out by licensing officers
- d) Accident history of the vehicle

Applications for an extension of the age policy must be made in writing to the Licensing Team, accompanied by the relevant administration fee, a minimum of 14 days prior to the expiry of the current licence.

Age restrictions shall not apply where a licensed vehicle is converted from one type of licensed vehicle to another, provided the vehicle licence in respect of the initial vehicle licence is surrendered. The vehicle must be altered so as to comply fully with the requirements of

the prospective licence in respect of the fitness, suitability, colour, size and type of vehicle, and any obligatory fixtures and fittings.

Change of Address

- PH22 The proprietor shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place.

Loss/Theft of Licence Plate

- PH23 The proprietor must report the loss/theft of licence plate(s) to the Licensing Office as soon as the loss becomes known and in any case, within 2 working days.

Surrender of licence

- PH24 A vehicle licence may be surrendered at any time and any refund of licence fee will be calculated as a pro rata daily rate on the number of days licence remaining, plus and any mechanical inspections not yet undertaken less the administration fee.

Change of Private Hire Operator

- PH25 This vehicle may only be operated under the provisions of one Private Hire Operators Licence at any moment in time. The proprietor must notify the Council of any change in Private Hire Operator before undertaking bookings for the new operator

Exemptions for Private Hire Vehicles

- PH26 Private hire vehicles used for executive hire will be permitted to apply for an exemption under Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 from the requirement to display licence plates.

Any proprietor of a licensed private hire vehicle wishing to apply for this exemption should be engaged exclusively in the provision of a 'chauffeur style' executive service as agreed by the Council.

Any proprietor of a licensed private hire vehicle wishing to apply for this exemption must satisfy the Council that:

- a) the specification of the vehicle constitutes an executive vehicle⁶ and
- b) the overall level of service provision constitutes an executive hire,⁷

⁶ An executive vehicle is a vehicle referred to as a premium class car finished to the highest specification and not a base or lower standard specification. The vehicle is to be provided with the services of a smart business wear uniformed driver

⁷ The vehicle will not be used for typical private hire work

The submission of contract specifications and/or evidence of all contract and account customers, including usage will be required to support any application for an exemption. Applications for exemptions are to be made in writing.

If an Exemption is granted, a Notice will be issued to the proprietor. The Notice shall be valid for a period not exceeding one year and shall expire alongside the private hire vehicle licence.

A rear licence plate will also be issued and this shall be carried in the boot of the vehicle at all times whilst the vehicle is being used in accordance with the exemption notice.

The Exemption Notice and the rear licence plate shall be produced to an authorised officer or police officer when requested.

Whilst the vehicle is being used in accordance with the Notice, the driver of the vehicle shall be required to carry his private hire driver badge in the vehicle but shall be exempt from wearing it.

No advertisements of any kind shall be displayed in, on or from the vehicle at any time whilst the Exemption Notice is in force. Company logos shall not be displayed on any part of the vehicle.

Roof signs shall not be permitted and the overall appearance of the vehicle both externally and internally shall be that of an unlicensed private vehicle at all times.

The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard conditions and any additional conditions. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice.

The private hire operator, proprietor and driver operating under the provisions of an executive Exemption Notice, remain subject to the requirements of the Local Government (Miscellaneous Provisions) Act 1976 with regard to the respective licences and the conditions attached in each case.

Novelty Vehicles and Stretched Limousines

PH27 The Council recognises the role novelty vehicles (e.g. converted fire engines) and stretched limousines play in the private hire trade to meet a public demand and has developed a separate licensing regime for such vehicles. Please see **Appendix 7**. (NB this includes additional proposed conditions in respect of such vehicles, relating to driver uniform, material change and exemption from window tint). Such vehicles will only be licensed as private hire vehicles.

It is not appropriate for such vehicles to be used for standard hiring and licensed operators shall only send such a vehicle when it has been specifically requested by the hirer.

Most novelty vehicles, in particular stretched limousines are imported for commercial purposes and are required to have undertaken an Individual type approval (ITA) test (which has replaced the old single type approval (SVA)). This ensures that the vehicles meet modern safety standards and environmental standards before being used on public roads.

Stretched limousines shall also have Qualified Vehicle Modifier or Cadillac Coach builder approval where appropriate.

There shall be no sale or provision of alcohol (or provision of regulated entertainment) from any vehicle without a current premises licence under the Licensing Act 2003 being in force and if all of the occupants, (save for the driver and accompanying responsible adult), are under the age of 18 then there shall be no alcohol at all in the vehicle for consumption or otherwise.

Where the passengers in the vehicle consist of children and young persons they must be accompanied by a responsible adult, (other than the driver) who is over the age of 18 and is not connected to the driver.

There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals. Similarly a vehicle does not need to be licensed while it is being used wholly in connection with a wedding.

ADDITIONAL POLICY AND STANDARD CONDITIONS FOR LIMOUSINES, NOVELTY VEHICLES AND EXECUTIVE HIRE

These conditions are IN ADDITION to the standard Private Hire Vehicle conditions except where stated.

INTERPRETATION

1. For the purpose of licensing by the Council a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres (120 inches) to extend the length of the vehicle. The vehicle shall be capable of carrying up to (but not exceeding) eight seated passengers. Each passenger seating area will be at least 400 millimetres wide.
2. The nature of limousines is such that it is unlikely they will comply with the Council's age policy and will therefore be deemed to be exempt from the policy.
3. Consideration will be given to the licensing of "novelty" vehicles e.g. fire engines on an individual basis.
4. Applications for exemptions from standard conditions will be considered in respect of executive, chauffeur driven vehicles.

POLICY

Documentation

5. The following documentation in original form or certified copies (not photocopies) shall be produced prior to licensing:
 - a) Completed importation documentation – Single Vehicle Approval (SVA) or Individual Type Approval (ITA).
 - b) A Qualified Vehicle Modifier certificate – (QVM). This is issued by the Coach Builder.
 - c) DVLA registration document (V5).
 - d) Insurance documents covering Hire and Reward, Public Liability insurance and, where drivers other than the proprietor are used, Employer Liability insurance.
 - e) Vehicle test certificate (inspection carried out and certificate issued by the Council's in-house testing station)
NB The compliance inspection is carried out at **four** monthly intervals.
 - f) Vehicles converted to run on LPG must produce an installation certificate from a LPGA approved UK vehicle conversion company.
 - g) Documentation to show the overall weight of the vehicle (as displayed on the vehicle)

CONDITIONS FOR LIMOUSINES, NOVELTY VEHICLES

Appearance of Vehicle

- LN1 The proprietor shall ensure that the limousine is of a type approved by the Council.
- a) The maximum length of the vehicle "stretch" shall not exceed 120 inches (3048 millimetres).
 - b) The vehicle should be equipped with a minimum of four road wheels and one full sized spare wheel. The tyres shall be of an approved rating as specified by the manufacturer i.e. 235/75R 15 108S (BF Goodrich Extra Load or equivalent). Vehicles produced since 1998 should be fitted with 225/70R 16 107T (Reinforced).
In addition tyres on the same axle must be of the same nominal size and aspect ratio
 - c) The front windscreen shall allow 75% light transmittance and the front driver and passenger windows shall allow 70% light transmittance. **(Construction 7 Use Regulations 1986).**
 - d) No self-adhesive material (tinted or clear) shall be affixed to any part of the glass without the prior written approval of the Council.
 - e) The interior of the vehicle must be kept wind and watertight.
 - f) The seats in the passenger compartment must be kept properly cushioned and covered.
 - g) The floor in the passenger compartment must be provided with a proper carpet, mat or other suitable covering
 - h) There must be adequate internal light to enable passengers to enter and leave the vehicle safely.
 - i) The internal fittings and furniture of the limousine must be kept in a clean, well-maintained condition and in every way fit and safe for public use.
 - j) Facilities must be provided for the conveyance of luggage safely and protected from inclement weather.
 - k) The vehicle must have at least two doors for use of persons conveyed in limousine and a separate means of ingress and egress for the driver.
 - l) The exterior of the limousine must be kept in a clean condition especially during inclement weather.
 - m) Facilities must be provided to ensure that any person travelling in the limousine can communicate with the driver.

Exemption Notice (also Section 75(3) LG(MP)Act 1976)

- LN2 The Council will issue a written notice that exempts the vehicle from having to display identification plate(s). This notice must be carried in the vehicle at all times and be available for inspection on request by an Authorised officer of the Council or a Police Officer.

- LN3 **Licence Plates** NB Replaces (a) to (c) of Condition 14 for PH Vehicles

- a) The proprietor of the limousine shall ensure the identification plate(s) is maintained and kept in such condition so that the

information contained on the identification plate is clearly visible at all times.

- b) The identification plate shall remain the property of the Council at all time and shall be carried in the limousine so as to be easily removed or inspected by an Authorised Officer of the Council or Police Constable.
- c) The vehicle will display the licence identification card issued by the Council in the windscreen of the vehicle, where it can be easily seen by persons outside of the vehicle.

Passengers

LN4

- a) The limousine shall not carry a greater number of passengers than the number prescribed in the licence.
(N.B. A babe in arms is classed as a passenger whatever their age).
- b) The vehicle shall not carry less than two passengers at any one time
- c) Where the passengers in the vehicle consist of persons under the age of 18 years they must be accompanied by a responsible adult, other than the driver, who is over the age of 18 years and is not connected to the driver.
- d) All passengers must remain seated at all times when the vehicle is in motion.
- e) Passengers will not be carried in the front of the vehicle.
- f) In accordance with Construction and Use Regulations, where seat belts are fitted they must be used by all passengers

Safety Equipment NB Replaces Part (a) of Condition 14 for PH Vehicles

LN5

The proprietor of the private hire vehicle shall provide and maintain to the satisfaction of the Authorised Officer an efficient fire extinguisher containing BCF (Bromochloro Difluoromethane), which shall be securely fixed to the vehicle and within easy reach of the driver at all times.

The extinguisher shall be manufactured to British Standards and shall show the B.S. number. The vehicle licence number shall be painted upon the extinguisher, using indelible black ink, in letters at least 10 mm high

Uniform

LN6

The proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or 'business type' suit when the vehicle is hired.

Material Change

LN7

The Proprietor shall notify the Council immediately in writing if there is any material change in the nature of the use of the vehicle during the

period of exemption.

Exemption from Window Tint

LN8

The Proprietor of any executive hire vehicle wishing to take advantage of an exemption limiting the window tint to the front driver and passenger windows only must be engaged in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years).

PRIVATE HIRE OPERATORS CONDITIONS

Booking Records (Legislation Section 56 (2) (4) LG(MP)Act 1976 and Condition PO1)

PO1 Every licensed private hire operator must keep a record of every booking of every private hire vehicle operated by him/her and of every sub contract made with the operator or arranged by the operator. The records must be continuous and chronological.

There must be only one set of records: cash and credit account bookings can be separately identified but must not be in separate sets of records.

The record must be kept in the form described in the following condition:

- a) Records must be kept in a suitable form in a continuous, chronological order, approved by the Council the pages of which are consecutively numbered, or
- b) On a computer which keeps backup records and is immediately capable of producing a printed record from the computer onto paper. Records must not be capable of retrospective alteration or amendment, and
- c) The operator or his/her agent/employee must enter, before the commencement of each journey, the following particulars of every booking of every private hire vehicle operated by him/her, the:
 - Name and address of the hirer;
 - Date, time and pickup point of the booking;
 - Destination;
 - Number of passengers to be carried;
 - When and how the booking was made i.e. telephone, personal call;
 - Plate number of the vehicle allocated;
 - Name of the driver allocated to the booking and call sign of the vehicle;
 - Amount to be charged; (where applicable)
 - Details of any sub contract arrangement;
 - Remarks.
- d) The operator must also keep records of the particulars of all private hire vehicles and drivers operated by him/her. These must include the owner of the vehicle, registration number, private hire vehicle licence number, any radio call sign used and all driver licence numbers.
- e) All records are to be kept for a period of not less than 12 months following the date of the last entry and to be produced for inspection on the request of an Authorised Officer of the Council or a Police

Officer.

The operator must not enter into his/her booking records details of any fare that has not been pre-booked by the hirer through his/her operating base, either by telephone or personal caller (NB It is an offence to enter details of any illegal plying for hire in an attempt to make such activity appear to be a legitimate booking).

Booking Records – Hackney Carriages

- PO2 Where a licensed Private hire operator accepts bookings for hackney carriages a record must be kept of each booking in the same format as all private hire bookings and this record must be produced on the request of an Authorised Officer of the Council or a Police Officer.

Change of Home Address

- PO3 The operator must notify the Council, in writing, within 7 days of any change of his/her personal address.

Change of Business Address

- PO4 A Private Hire Operator licence is granted to the operator for the premises detailed at the time of application. It is not transferable to other persons or premises. Any change from the original application will be dealt with as a new application. The operator will be required to make a new application accordingly.

Complaints

- PO5
- a) The operator must maintain written or computer records of all complaints received concerning a contract for hire or purported contract for hire relating to or arising from his/her business (including any sub-contracted work) and the action that was taken. These details shall be maintained for a minimum of six months and be made available to a licensing officer on request.
 - b) The operator must notify the Council, in writing, within 7 days of any complaints and of the action (if any), which the operator has taken or proposes to take.
 - c) Where a complaint is investigated by an Authorised Officer of the Council the operator shall comply with any reasonable directions of the Officer in respect of that complaint.

Convictions

- PO6 If the operator is cautioned or convicted of any motoring or criminal offence (s)he must notify the Council, in writing, within 7 days. If the licence is in the name of a Company or Partnership the cautions/convictions of any Directors or Partners must be disclosed.

Display of Licence

- PO7 If the public has access to the operating premises you are required to display your Private Hire operator Licence in your operating premises together with a copy of your licence conditions and the Local Government (Miscellaneous Provisions) Act 1976.

DTI Licences

- PO8 If two-way radios are fitted to vehicles which are used, the operator must produce evidence of a DTI radio Licence to the Council and provide all details of radio frequencies, together with call signs/numbers of all vehicles using two-way radios.

Equal Opportunities

- PO9 The operator must at all times treat his/her passengers or any potential passenger with courtesy and respect. The operator and his/her employees must not discriminate against any person because of their race, colour, creed, gender or disability.

Facilities for Passengers

- PO10 The operator must ensure that where any passenger waiting area or room is provided, it is kept physically separate from any driver rest area and operations room. Where a waiting area or room is provided for the use of passengers or prospective passengers the operator shall:
- a) provide adequate seating for the use of those passengers or prospective passengers; and
 - b) ensure that such room or area is kept clean, adequately heated, ventilated and lit; and
 - c) ensure that the interior and exterior of the premises are kept in good repair, to the satisfaction of the Council.

Fares

- PO11 The fare charged by the Operator shall be agreed with the hirer at the time of booking.

Parking

- PO12 Where adequate off street parking is not available at the operating address specified on the licence the operator shall inform the Council, in writing of all locations where vehicles will be parked when waiting for bookings.

Planning Permission

- PO13 The operator must have Planning permission for private hire use at the operating premises. The operator must comply in every respect with the requirements of the current planning legislation.

Right of Access

- PO14 The operator must permit any Authorised Officer of the Council onto his/her operating premises at all times when acting as a Private Hire operator and provide him/her with access to all records which (s)he may reasonably require.

Standard of Service

- PO15 The operator must provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose must, in particular:
- a) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle must attend at the appointed time and place unless unavoidably delayed.
 - b) Keep clean, adequately heated, ventilated and lit any premises which are provided and to which the public have access, whether for the purpose of booking or waiting.
 - c) Ensure that any telephone facilities and radio equipment provided are, at all times, kept in good working order and that any defects are repaired promptly.
 - d) Not describe by the use of advertising signs, printed words, broadcasts or by any other media the word "Hackney Carriage" or "Taxi", or any derivative to describe the private hire services offered.

Taximeters

- PO16 When taximeters are used the operator must notify the Council of the fare rate and any subsequent changes made to that fare rate during the period of the Operator licence. Where any vehicle operated is fitted with an approved taximeter the operator shall ensure that the taximeter is set to the fare rate notified to the Council and properly sealed in accordance with Council regulations.

Vehicles to be used

- PO17 It shall be a requirement that hackney carriage and private hire vehicles and drivers that have been licensed by Hartlepool Borough Council shall be used within the controlled district of Hartlepool unless it is necessary to sub-contract a booking. In this case the operator must ensure that the same standard of vehicle and driver is provided by the sub-contractor. This is to ensure that the travelling public of Hartlepool are provided with a consistent standard of service.

CONDITIONS RELATING TO THE LICENSING OF HORSE DRAWN CARRIAGES (LANDAUS) AND THEIR DRIVERS

1. Making an Application - Essential Requirements

- 1.1 Prior to a vehicle licence being issued the applicant, being the proprietor of the vehicle, shall: -
- a) Complete and submit to the Council an application on the prescribed form together with the required licence fee no later than three working days prior to the licence being required.
 - b) Pay the required licence and associated fees. If payment is made by cheque which is subsequently dishonoured any licence issued shall be null and void. Licence fees are non-refundable.

2. Conditions of Licence

- 2.1 The proprietor of any licensed carriage shall ensure that the following conditions are complied with: -
- 2.2 The Vehicle - External Construction and Markings
- 2.3 The vehicle shall be purpose built and suitable for the carriage of passengers.
- 2.4 The vehicle shall be inspected and approved as appropriate for use as a hackney carriage prior to licensing.
- a) Carriage licence plates shall be fixed to the rear of the vehicle in a clear and conspicuous location in a vertical plane at right angles to the longitudinal axis of the vehicle;
 - b) Licensed carriages must at all times be maintained in a good condition and be kept clean and tidy. This includes the following examples which are for reference only and does not constitute a definitive list of matters that may be considered to evaluate whether a vehicle is in a good condition: -
 - i. Bodyshell/paintwork – free from rust, broken metal and other visible damage;
 - ii. Door hinges – shall be in good working order and to be seated correctly when closed;

- c) No external markings shall be permitted on the vehicle with the exception of the name and contact number of the owner/operator which may be displayed in the upper half of both passenger doors. Such advertisements must, in the opinion of an authorised officer, be tasteful and decent.
- d) The carriage must be fitted with such equipment as to be able to collect and retain horse manure, water and feed for the animal.
- e) All tack and fixtures must be kept in good order and be available for inspection by authorised officers.

2.5 *The Vehicle - Internal construction and markings*

2.6 The carriage shall meet the following minimum measurements:-

- i. Seats (length) – the shortest distance between the front and back of a seat (i.e. from the back rest to the front edge) must not be less than 450mm.
- ii. In the case of rear facing seats, the distance between the backs of facing seats shall not be less than 1520mm. In all other cases the distance between the back rest of the seat and any facing obstruction must not be less than 760mm.
- iii. Seats (width) – The shortest distance between the edges of a seat shall be no less than 400 mm. Where the rear passenger seating area is divided into individual seats by way of formed cushions or other similar divide and, in the opinion of an authorised officer, affect the comfort of a passenger, the above measurement shall be ascertained by measuring the distance between seatbelt anchorages (if applicable).

2.7 Floor and seat coverings shall be kept in good condition and be free of holes, stains or other damage at all times.

2.8 Blankets shall be provided for the comfort of passengers.

2.9 No fittings or signs (except for advertising detailed below) shall be attached to the inside of vehicle unless approved by the Council.

2.10 Advertising in the interior of a vehicle is permitted but only where such advertising does not detrimentally affect the safety or comfort of passengers and is not designed or intended to be viewed from the exterior of the vehicle.

2.11 The Vehicle - Additional Conditions

2.12 A vehicle licence applies solely to the vehicle specified on the licence.

2.13 The licence and associated plates shall remain the property of the Council at all times.

2.14 The proprietor of a licensed vehicle shall: -

- i. Produce the licensed vehicle for inspection at the request of any authorised officer or police constable;
 - ii. Return the licence to an appropriate Council Officer within 7 days of the surrender, expiry, revocation or suspension of such licence or upon the proprietor transferring his/her interest in the vehicle;
 - iii. Report the loss of any plates or the vehicle licence to an appropriate Council Officer as soon as the loss becomes known;
 - iv. Notify the Council of any transfer of interest or ownership within 7 days of that transfer. This must include the date of the transfer, plate number and name and address of the new owner;
 - v. Comply with any reasonable request made by an authorised officer or police constable in respect of that vehicle; and
 - vi. Notify the Council of any significant damage to the vehicle within 72 hours of the occurrence.
- 2.15 A vehicle that has failed a vehicle inspection test must be submitted for a re-test to the vehicle examiner approved and appointed by the Council on the defects found within 14 days from the date of the test otherwise a further full vehicle inspection test fee will be liable to be paid.
- 2.16 Any material alteration to the design or construction of a vehicle must have prior approval from the Council.
- 2.17 The carriage must have a valid policy of insurance in respect of third party risks and a minimum of £5,000,000 public liability insurance.
- 2.18 The carriage may only be used on previously approved routes.
- 2.19 The Horse
- 2.20 The horse must be a minimum of three years old.
- 2.21 Horses must be appropriately shod at all times.
- 2.22 If a horse is considered to be lame, or in any other way unwell, it shall be removed from service immediately.
- 2.23 Horses must be provided with regular access to drinking water.
- 2.24 The horse, and its associated tack, must be examined and passed as fit for the task involved, by a qualified veterinary surgeon who may also advise the authority on the maximum number of hours that a horse may work.

- 2.25 The local authority shall require the horse(s) to be examined by a qualified veterinary surgeon on an annual basis, at time of renewal of the licence and at the licence holder's expense.
- 2.26 Certified horses should be easily identified by means of microchip or permanent marking.
- 2.27 The horse must have a current passport.
- 2.28 The horse should be stabled in appropriate accommodation with access for inspection at all reasonable times.
- 2.29 Any horse used in any one day as a horse drawn carriage horse shall not be used during that day for any other purpose.
- 2.30 No horse shall be used for drawing a carriage during the hours of darkness.
- 2.31 Sufficient horses must be provided to power the licensed carriage.
- 2.32 The Driver
- 2.33 The driver of the carriage must be a licensed hackney carriage driver and produce the following certificates:
- i. Suitable qualification demonstrating a knowledge of the most common horse ailments and basic knowledge of the horses general needs/requirements.
 - ii. Road Driving Certificate issued by either the British Driving Society or the Heavy Horse Training Committee, passing the driver as capable of handling the horse and carriage under highway conditions.
- 2.34 The driver of a carriage is exempted from the requirement to hold a full drivers licence issued by the Driver and Vehicle Licensing Agency (DVLA).
- 2.35 The driver of a carriage is exempted from the requirement to pass the locations element of the driver's examination.
- 2.36 Fares
- 2.37 A table of fares to be charged by the operator must be approved by the Council.
- 2.38 It shall be the responsibility of the carriage driver to advise any prospective passenger of the cost of the agreed journey prior to the commencement of that journey. In addition, the driver must ensure that a notice is prominently displayed stating that fares must be negotiated and agreed prior to the commencement of a journey.
-

LICENSING COMMITTEE

10 October 2018



Report of: Assistant Director (Environment & Neighbourhood Services)

Subject: ANIMAL WELFARE LICENSING

1. PURPOSE OF REPORT

- 1.1 To inform Licensing Committee of changes to animal welfare licensing that will take effect on 1st October 2018.

2. BACKGROUND

- 2.1 The Council currently licenses a number of activities related to 'companion animals'. These are: -
- Breeding of dogs
 - Animal boarding (cats and dogs only)
 - Pet shops
 - Riding establishments
 - Performing animals
- 2.2 From 1st October 2018 the current licensing regimes that apply to the above activities are being consolidated into the Animal Welfare (Licensing of Activities Involving Animals) regulations 2018.
- 2.3 The new regulations update and improve welfare standards and introduce a Star Rating Scheme similar in operation to the Food Hygiene Rating Scheme that Members will be familiar with.
- 2.4 The new regulations also clarify and extend the application of the new requirements so as to include certain activities/businesses that would not have previously needed to be licensed.
- 2.5 For example, in addition to those who currently sell puppies as part of a business enterprise, the new law will require anyone who breeds three or more litters of puppies in a 12 month period to be licensed regardless of whether it is a business.

- 2.6 Licensed dog breeders will now be required to include their licence number in advertisements.
- 2.7 Across all licensable activities, there are currently 17 licence holders in Hartlepool but it is possible that this number will increase due to the regulations' extended scope.
- 2.8 Star Rating Scheme
- 2.9 Whereas under current legislation all licences are for a duration of one year, the new system is risk based and designed to reward those who offer higher animal welfare standards.
- 2.10 Licences can now last for 1, 2 or 3 years and all licensees will be given a 'Star Rating' of between 1 and 5 stars. The star rating must be included on the licence and the licence must be on display in the licensed premises. This will allow consumers to make an informed choice when deciding to engage the services of a business.
- 2.11 The determination of the appropriate star rating is based on a 'Scoring Matrix' which takes into account the level of risk associated with the business and the animal welfare standards being applied. The matters to be taken into consideration for both welfare standards and assessment of risk are detailed in the regulations and associated Government guidance.
- 2.12 Businesses have the right to appeal against the Star Rating they have been awarded.

3. PROPOSALS

- 3.1 The new regulations take effect on 1st October 2018 and will apply to all new applicants.
- 3.2 Existing licensees do not need to apply for a new licence until their current licence expires which, for everyone, is 31st December 2018 (as, under current legislation, all animal welfare licences run from 1st January to 31st December).
- 3.3 All existing licence holders were invited to a seminar held in the Civic Centre on 27th September. Feedback from this meeting was mostly positive.
- 3.4 Before a licence can be granted all premises must be inspected by either a vet or a suitably qualified officer. In order to keep licence costs to a minimum it is proposed that licensing officers will attain the relevant qualification and vets will only be used where the law requires it or where a vet's general or specific expertise is considered necessary.

4. RECOMMENDATIONS

- 4.1 That Members note the introduction of the new Animal Welfare (Licensing of Activities involving Animals) regulations 2018.

5. BACKGROUND PAPERS

- 5.1 There are no background papers associated with this report.

6. CONTACT OFFICER

Tony Hanson
Assistant Director (Environment & Neighbourhood Services)
Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY

(01429) 523400
Tony.hanson@hartlepool.gov.uk

Sylvia Pinkney
Head of Public Protection
Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY

(01429) 523315
Sylvia.pinkney@hartlepool.gov.uk