

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Licensing Committee

Date: **Wednesday, 28th October, 2020**

Time: **10.00 am**

Venue: **[Ashfield District Council's YouTube Channel](#)**

For any further information please contact:

Lynn Cain

l.cain@ashfield.gov.uk

01623 457317

LICENSING COMMITTEE

Membership

Chairman: Councillor Warren Nuttall

Councillors:

Kier Barsby
Melanie Darrington
Arnie Hankin
Rachel Madden
Caroline Wilkinson

Jim Blagden
Dale Grounds
Trevor Locke
Lauren Mitchell
John Wilmott

FILMING/AUDIO RECORDING NOTICE

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SUMMONS

You are hereby requested to attend a meeting of the Licensing Committee to be held at the time and on the date mentioned above for the purpose of transacting the business set out below.



Carol Cooper-Smith
Chief Executive

AGENDA

Page

1. **To receive apologies for absence, if any.**
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.**
3. **To receive and approve as a correct record the minutes of the meeting of the Committee held on 30 July 2020.** 5 - 6
4. **Street Trading: New Resolution.** 7 - 52
5. **Hackney Carriage & Private Hire Licensing Policy: Updated following issue of Statutory Guidance.** 53 - 216

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LICENSING COMMITTEE

Meeting held on Thursday, 30th July, 2020 at 10.00 am

Present: Councillor Warren Nuttall in the Chair;

Councillors Jim Blagden, Dale Grounds,
Arnie Hankin, Trevor Locke, Rachel Madden,
Lauren Mitchell, Caroline Wilkinson and
John Wilmott.

Apologies for Absence: Councillors Kier Barsby and Melanie Darrington.

Officers Present: Julian Alison, Lynn Cain, Louise Ellis, Mike Joy
and Christine Sarris.

L.1 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

No declarations of interest were made.

L.2 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 8 July 2019, be received and approved as a correct record.

L.3 Business & Planning Act 2020: Temporary Pavement Licences

The Licensing Manager presented the report and advised Members that the Business & Planning Act 2020, which had recently received royal assent, had delegated the administration and enforcement of Temporary Pavement Licences to local councils. As such Ashfield District Council had now become responsible for the licensing function and would be required to administer and enforce the licensing scheme.

Previously, pavement licences were administered by Nottinghamshire County Council under the Highways Act 1980. The new Business & Planning Act 2020 had transferred the responsibility over to local authorities to enable them to assist businesses to recover following the Covid-19 pandemic and boost vibrancy within town centres.

The licence would enable eating and drinking establishments to place street furniture on the highway, subject to certain criteria, to enable patrons to reside safely in accordance with Government distancing guidelines. A designated non-smoking area would need to be provided but councils were still awaiting the Government's release as to the precise wording for a "mandatory provision of non-smoking area" condition.

Appendix 2 of the report outlined the standard conditions for the licence and any application would be fast-tracked by the Council within 7 days in accordance with the new process. The Council also had powers to revoke such licences, at any point, should any of the conditions be breached.

Committee were asked to approve the administration of Temporary Pavement Licences by the Council and delegate authority to the Director of Place and Communities to determine applications in accordance with the agreed process.

RESOLVED that

- a) the content of the report be received and noted;
- b) approval be given for the administration and enforcement of the Temporary Pavement Licence function by the Licensing Department, as set out in the report;
- c) the setting of a no charge application fee (until 30 September 2021) in order to reduce the financial burden on businesses and to promote applications for a Temporary Pavement Licence, be approved;
- d) delegated authority be granted to the Director of Place & Communities to determine applications made for a Temporary Pavement Licence.

The meeting closed at 10.15 am

Chairman.

Report To:	LICENSING COMMITTEE	Date:	28TH OCTOBER 2020
Heading:	STREET TRADING: NEW RESOLUTION		
Portfolio Holder:	REGULATORY SERVICES		
Ward/s:	ALL		
Key Decision:	YES		
Subject to Call-In:	NO		

Purpose of Report

On 25th July 2019 Council approved the adoption of a brand new Street Trading Policy (recommended by the Licensing Committee). The intention of the Policy was to **“open up the District for business”** and to improve the control of Street Trading. However, a resolution was not made at that time to vary existing street trading designations currently in force pursuant to a number of historical resolutions that are counter-productive to the aims of the new Street Trading Policy.

Recommendation(s)

The Licensing Committee is recommended to:

- 1) Recommend that all street within the Ashfield District be designated as “Consent Streets”;**
- 2) Approve the Draft Street Trading Resolution for consultation; and**
- 3) Instruct the Licensing Manager to carry out the statutory consultation process and report any responses back to the Committee for further consideration.**

Reasons for Recommendation(s)

The powers to control Street Trading within the Council’s area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.

When Council adopted the new Street Trading Policy on 25th July 2019 setting the locality as one where a Street Trading Consent must be obtained before trading can commence, a Resolution was not made to designate all of the streets within the District as “Consent Streets” (i.e. streets on which trading may take place once the Council has granted the individual trader a “Consent” to do so).

This report seeks to rectify this omission.

Alternative Options Considered

Consider designating some streets as Licence and/ or Prohibited streets: Not recommended as this would restrict street trading in the District and be contrary to the spirit of the approved Street Trading Policy. The Street Trading Policy contains safeguards to ensure that trading will not be allowed in inappropriate locations.

Do nothing: Not recommended as this would mean that any designations under historic Resolutions made prior to 25th July 2019 would remain in force, meaning street trading consents for new locations would not be able to be granted without a formal Resolution being made, and that the restricted number of 15 Consent Streets would remain the norm.

Detailed Information

On 25th July 2019, following the recommendation of this Committee, Council adopted a new Street Trading Policy that proposed all streets within the Ashfield District be Consent Streets (i.e. a street trading Consent must be granted by the Council in order for Street Trading to take place on the highway). Unfortunately when the Street Trading Policy was put before this Committee, Officers were unaware of the need to also seek a formal resolution of the Committee to vary the existing street trading designations made by prior resolutions of this Committee.

The Local Government (Miscellaneous Provisions) Act provides for the regulation of street trading within a local authority area. The Authority may choose to designate a street as either a:

- a) Prohibited Street;
- b) Licence Street; or
- c) Consent Street.

If no designation is made street trading in that area cannot be regulated by the Authority. If a street is designated a Prohibited Street no trading at all is permitted. The differences between a Licence and a Consent street are set out in **Appendix One**. The method for designating a street is prescribed by the legislation, requiring public consultation and a resolution of the Committee.

On 6th March 2002 the Licensing and Registration Committee resolved to adopt the street trading legislation for the whole district and designated any streets that were not Consent Streets as Prohibited Streets. Since then a number of further resolutions have been made adding to the list of Consent streets however any streets not on that list currently remain prohibited streets. A copy of the March 2002 resolution along with a list of the current Consent Streets within the District is attached at **Appendix Two**.

Without a new Resolution to vary the existing prohibited street designations, the aims of the new Policy would be unable to be achieved. It is proposed that this Committee make a Resolution that all streets within the Ashfield District be "Consent Streets". A copy of the **Draft Resolution** is attached at **Appendix Three**.

Making such a Resolution will enable proportional and managed growth for future generations which meets with the needs of our communities and economy; ensure that we are supporting business, growth and employment, and ensure that we are able to improve the environmental sustainability of our region.

Members will already be aware of the seven criteria contained within the Street Trading Policy which define locations that may not be deemed suitable for Street Trading (a copy of the Policy is attached at **Appendix Four**), which are:

- **In close proximity to a place of worship;**
- **In close proximity to a place of education;**
- **In close proximity to a place of healthcare;**
- **In close proximity to a place of cultural or historical local / national significance;**
- **In close proximity to primarily residential properties;**
- **In close proximity to a business offering the same goods / services;**
- **Likely to undermine the safety and / or convenience of the general public and / or road users.**

Although the proposal is for all streets to be designated Consent Streets this does not automatically grant a right to trade from that street. A trader must first apply for, and be granted, a Street Trading Consent. The above criteria will be applied when an application for a Consent is received and provide a framework to ensure that consent will not be granted for trading to take place in inappropriate locations.

In order to change the designation of currently prohibited streets public consultation must first be undertaken in line with the process set out in the legislation. A Public Notice must be placed in a local paper and on the Council website stating the intention to pass the Resolution, and a copy of the Resolution must be served on the Police and Highways Authority (neither of whom provided any objection to the Street Trading Policy), copies will also be served on others listed in the Street Trading Policy, and all current Street Traders.

The consultation shall last for 28 days, and the responses to the consultation shall be put before this Committee. Once a Resolution is passed, the Council must publish it for two consecutive weeks in a local paper (the first of which must not be less than 28 days before the date specified in the Resolution for the designation to come into force).

Implications

Corporate Plan:

Legal:

The Local Government (Miscellaneous Provisions) Act 1982 (Schedule 4) sets out the process for designating Consent Streets and rescinding any existing Street Trading Resolution(s).

The process to be followed has been detailed within this report.

Finance:

The cost of administering the Street Trading Scheme is recovered through the fees and charges applicable to this specific licensing function, and such fees are reviewed annually.

This report is effective from **28th October 2020** and has the following financial implications.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carry out its licensing functions and decision making processes.

Human Resources:

There are no Human Resources implications contained within this report.

Environmental/Sustainability

By approving the draft Resolution, the Council is able to control Street Trading throughout the District, ensuring the protection and sustainability of the local environment.

Equalities:

There are no diversity or equality implications contained within this report.

Other Implications:

None

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

Appendix One: Explanation of Street Trading Licences and Street Trading Consents

Appendix Two: List of current Consent Streets

Appendix Three: Draft Resolution

Appendix Four: Street Trading Policy

Report Author and Contact Officer

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Differences between Street Trading Consents and Licences

Licence	Consent
District Council obliged to grant a licence unless the application ought to be refused on one or more of the grounds in the Act e.g. insufficient room for the type of unit requested.	District Council under no duty to grant a street trading consent and need not specify statutory grounds for refusal.
District Council may only revoke or refuse to renew a licence on the statutory grounds.	No statutory limitation on a district council's power to revoke or refuse to renew a street trading consent.
Before a district Council may vary a principal term of a street trading licence, or before it may refuse to grant or renew or revoke a street trading licence, it must first invite the applicant/licence holder to make representations and then afford that person a reasonable opportunity to make these representations.	No notice requirements apply to a street trading consent.
Statutory grounds of appeal against the refusal, revocation or variation of a principal term of a street trading licence are contained in the Schedule.	There is no right of appeal against the refusal to grant or renew a consent or against the revocation or variation of a consent.
A licence holder may be prosecuted for a breach of the 'principal terms' which relate to the street in which, the days and times upon which and the articles in which the holder trades.	A street trading consent holder may only be prosecuted for a breach of a condition where he trades from a stationary van, cart, barrow, vehicle or from a portable stall in a place or at a time not included in the consent, or for breach of condition relating to the positions and times in which he may trade, but not for a breach of a condition relating to the type of article to be sold.
A district Council may recover from a licence holder such reasonable charges as it may determine for the collection of refuse and the cleansing of streets etc.	A District Council may not charge the holder of a street trading consent for the collection of refuse and cleansing of streets etc.
Where a licence is surrendered or revoked the Council has a discretion to remit or refund any fee paid for it.	Where a consent is surrendered or revoked a Council is under a duty to remit or refund the whole or part of any fee paid for the consent.
The consent of the highway authority is necessary for the designation of a street as a Licence Street.	Highway authority consent is not required before the designation of a street as a consent street.

APPENDIX TWO

LICENSING AND REGISTRATION COMMITTEE.

Meeting held in the Council Chamber,
Council Offices, Urban Road, Kirkby in Ashfield,

on Wednesday 6th March, 2002, at 9.30 a.m.

Present: Councillor J.E. Blagden in the Chair;

Councillors A. Butler, M.A. Carey, G. Dove,
D. Hague, Mrs. R.E. Madden and Mrs. C.A. Young.

Apology for Absence: Councillor T.C. Locke.

Officers Present: W. Buckley, M. Needham, Miss J. Robinson and
S. Wormald.

LR7.1 MINUTES.

RESOLVED

that the minutes of the meeting of the Licensing and Registration Committee held on 19th December, 2001, be taken as read and signed by the Chairman as a correct record.

LR7.2 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS.

Councillor Mrs. C.A. Young declared a general non-pecuniary interest in respect of any matters relating to Hire Vehicles.

LR7.3 LICENCE, REGISTRATION CONSENT AND PERMIT FEE INCREASES FOR 2002.

Additional information in respect of this item had been circulated to Members. The Committee was asked to consider the level of increases of licensing, registration and permit fees for 2002. In addition to consider an additional increase in order to finance a part-time Licensing Enforcement Officer for 2002/03.

Prior to reaching a decision Members considered the alternative option of leaving fees at the existing rates or make an increase or reduction of the existing or proposed fees.

RESOLVED that

- (a) the level of fee increases, as set out in Column (B) in the Addendum to the report, to cover the part-time Licensing Enforcement Officer post, be approved from 1st April, 2002;
- (b) in view of the additional duties to be undertaken by the Licensing Section the Personnel Committee be requested to consider an additional part-time post (proposed scale 3/4) to support the work of the Licensing Section;
- (c) the Head of Environmental Health Services, in consultation with the

Chairman of this Committee, be authorised to consider any representations made in respect of the proposed fees and agree any variation to the proposed fees which may be deemed appropriate.

Reason:

The Council's current financial strategy includes provision for a minimum of 5% increase in income. In addition, the Environmental Health Services Business Plan 2001-2005 makes provision for a part-time Licensing Enforcement Officer for 2002/03.

LR7.4

STREET TRADING - ADOPTION OF WHOLE OF DISTRICT
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SECTION 3 SCHEDULE 4.

Additional information in respect of this item was circulated to Members at the meeting. The Committee was asked to consider the control of street trading across the whole of the district.

Prior to reaching a decision Members considered the alternative options available as follows:-

1. Adopt all streets, lay-bys etc. within the Ashfield area as Consent to Trade Areas
2. Adopt all areas as prohibited streets.
3. Adopt the whole district as a licensed trading area.
4. Adopt specific sites as licensed trading areas with the remainder as prohibited sites.
5. Leave as status quo.

RESOLVED that

- (a) those areas within the District of Ashfield where there are existing traders, shall be designated as consent streets for the purposes of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982;
- (b) all remaining streets within the District be adopted as prohibited streets;
- (c) the level of fee to be charged for a consent to trade shall be £821.20 for all applicants;
- (d) the Strategic Director, Community Services, in consultation with the Chairman and Vice-Chairman of this Committee, be authorised to implement the above decisions and take all necessary steps in accordance with the statutory procedure, and consider any representations or objections arising;
- (e) the Cabinet be informed of this Committee's proposals to adopt a combination of consent street trading areas and prohibited streets across the whole of the District.

Reason:

To control street trading across the whole of the District.

(The meeting was adjourned at 11.00 a.m. and reconvened at 11.25 a.m.)

LR7.5

SECTION 100 (A) LOCAL GOVERNMENT ACT 1972;

EXCLUSION OF THE PRESS AND PUBLIC.

RESOLVED

that in accordance with the provisions of Section 100(A) of the Local Government Act 1972, the press and public be now excluded from the meeting during the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 9 of Part I Schedule 12(A) of the Act.

LR7.6

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1976,
TOWN POLICE CLAUSES ACT, 1847,
CONSIDERATION OF REFUND OF FEE.
(EXEMPT BY VIRTUE OF PARAGRAPH 9).

The Committee was asked to consider a request for a refund of a private hire operators licence fee.

The Section Head Environmental Health Officer (Commercial) presented his report which outlined the request. Members were then able to ask questions of the Section Head.

The applicant then presented his case to the Committee. Members were then able to ask questions of the applicant.

The Section Head and the applicant then made short closing addresses to the Committee.

The Chairman then required all parties other than Members of the Committee and the Committee Clerk to withdraw from the meeting to enable Members to deliberate on the application. The Chairman re-called the Legal Officer into the meeting to give advice to the Committee.

Prior to reaching a decision Members considered the alternative options available as follows:-

1. Refund the whole fee of £260.50.
2. Do not make any refund.

The Chairman subsequently invited all parties to return to hear the decision of the Committee.

RESOLVED that

- (a) in accordance with Section 70(6) of the Local Government Act (Miscellaneous Provisions) Act, 1976, and without setting any precedent regarding refunds to applications in the future, half of the private hire operators licence fee be refunded to Mr. M.S.;
- (b) the decision of the Committee to be confirmed to the applicant in writing.

Reason:

Due to the short period of time that the licence had been in force a refund of part of the fee was thought to be appropriate.

(The meeting was adjourned at 11.55 a.m. and reconvened at 1.00 p.m. Councillor A. Butler left the meeting at 11.55 a.m. following consideration of the above item and did not return to the meeting.)

LR7.7

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976,
TOWN POLICE CLAUSES ACT, 1847,
APPLICATION FOR A HIRE VEHICLE DRIVER'S LICENCE - MR. D.M.R.
(EXEMPT BY VIRTUE OF PARAGRAPH 9).

The Committee was asked to consider an application for a hire vehicle drivers licence.

The Section Head Environmental Health Officer (Commercial) presented his report which outlined the application.

The applicant then presented his case to the Committee. Members and the Section Head were then able to ask questions of the applicant.

The Section Head and the applicant then made short closing addresses to the Committee.

The Chairman then required all parties other than Members of the Committee and the Committee Clerk to withdraw from the meeting to enable Members to deliberate on the application. The Chairman re-called the Legal Officer into the meeting to give advice to the Committee.

Prior to reaching a decision Members considered the alternative options available as follows:-

1. Grant the Licence.
2. Grant the licence and issue a warning.
3. Refuse the application.

RESOLVED that

- (a) in accordance with the Local Government (Miscellaneous Provisions) Act, 1976, Town Police Clauses Act 1847, a hire vehicle driver's licence be granted to Mr. D.M.R. for an initial period of six months, subject to a strict warning being issued to the applicant advising him that the Committee would view subsequent convictions very seriously and revocation of his licence would be considered;
- (b) the decision of the Committee to be confirmed to the applicant in writing.

Reason:

The Committee were satisfied that the applicant was a fit and proper person to hold a hire vehicle driver's licence.

LR7.8

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
TOWN POLICE CLAUSES ACT 1847
CONSIDERATION OF REVOCATION OF HIRE VEHICLE DRIVER'S LICENCE -
MR. P.S.A. (EXEMPT BY VIRTUE OF PARAGRAPH 9).

Members were advised that the applicant Mr. P.S.A. had failed to notify the Licensing Section whether or not he would be attending the meeting. In the event he did not attend the meeting.

The Committee was asked to consider a revocation of a hire vehicle driver's licence. The Section Head Environmental Health Officer (Commercial) presented his report which outlined the application.

Members were then able to ask questions of the Section Head.

The Section Head then made a short closing address to the Committee.

Prior to reaching a decision Members considered the alternative options available as follows:

1. Remove the existing suspension and allow Mr. P.S.A. to continue to be licensed.
2. Continue with the suspension.

RESOLVED that

- (a) in accordance with the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, the hire vehicle driver's licence of Mr. P.S.A. be revoked with immediate effect;

- (b) the decision of the Committee to be confirmed to the applicant in writing.

Reason:

The Committee had regard to Section 61(1)(a)(ii) of the Local Government (Miscellaneous Provisions) Act 1976 and to a number of incidents concerning Mr. P.S.A.'s use of the hire vehicle, which had resulted in Mr. P.S.A. being on Police bail. The Committee viewed the incidents very seriously and, in the absence of mitigation from Mr. P.S.A. concluded that revocation of the licence was warranted. The priority of the Committee being protection of the public.

The meeting closed at 1.50 p.m.

Chairman

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DRAFT RESOLUTION

Pursuant to paragraphs 2(3) and (13) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, Ashfield District Council, for the purposes of regulating street trading in the District, hereby resolves with effect from a date not earlier than one month from the date hereof:

- 1) to rescind paragraph 5(b) of the resolution made by this committee on 6 March 2002 which adopted all non-consent streets in the District as prohibited streets.**
- 2) to designate every street in the District, not already so designated, a consent street on which street trading is permitted by holders of a street trading consent granted by the Council. For the avoidance of doubt street trading on a consent street is prohibited without the prior consent of the Council.**



LICENSING AUTHORITY

STREET TRADING POLICY

Effective from: 26th July 2019

Adopted: 25th July 2019

SECTION	CONTENT	PAGE NO.
1.	Purpose of the Policy	1
2.	Policy Consultation	2
3.	Duration of Policy	3
4.	Legislation & Current Provisions	4
	• Types of Consents issued by the Council	5
	• Consultation Period for Street Trading Consent Applications	5
	• Relevant Considerations relating to Applications	6
5.	Delegation of Functions	8
6.	Conditions attached to Street Trading & Mobile Trading Consents	9
7.	Street Trading Consents	10
	• Procedure: Making a Street Trading Consent Application	10
	• Determination of Street Trading Consent Applications	11
	• Grant of Street Trading Consent Applications	11
	• Duration of Street Trading Consents	11
	• Refusal of Street Trading Consent Applications	11
	• Transfer of a Street Trading Consent	12
8.	Mobile Trading Consents	13
	• Procedure: Making a Mobile Trading Consent Application	13
	• Determination of Street Trading Consent Applications	14
	• Grant of Street Trading Consent Applications	14
	• Duration of Street Trading Consents	14
	• Refusal of Street Trading Consent Applications	14
	• Transfer of a Street Trading Consent	15
9.	Community & Charity Event Trading Consents	16
	• Procedure: Making a Community & Charity Trading Application	16
10.	Special Events Trading Consents	17
	• Procedure: Making a Special Events Trading Consent Application	17
11.	Markets	18
12.	Enforcement	19
13.	Fees & Charges	20
14.	Equality & Diversity	21
15.	Licensing Authority Contact Details	22
 APPENDICES		
A.	Standard Conditions - Street Trading Consents	23
B.	Standard Conditions - Mobile Trading Consents	25

GLOSSARY

The Act:	Schedule 4: Local Government (Miscellaneous Provisions) Act 1982
The Council:	Ashfield District Council.
The Applicant:	The trader who has submitted an application for a Street Trading Consent.
Consent Holder:	An individual who holds a Street Trading Consent.
A Street:	Includes any road, footway, beach or other area to which the general public have access without payment.
A Trading Consent:	A permission, given by the Council to trade, subject to conditions and payment of a fee.
A Roundsman:	An individual who visits a “round” of customers and delivers the orders of those customers, i.e. a milkman. A person operating an ice-cream van is not classed as a roundsman.
A Pedlar:	<p>A Pedlar is a trader who must:</p> <ul style="list-style-type: none"> • Hold a valid Pedlar’s Certificate issued by a Chief Constable of Police. • Keep moving, stopping only to service customers at their request. • Move from place to place, and not circulate within the same area. • Carry all goods for sale and not set up a “stall”.
Mobile Trader:	<p>A Mobile Trader is one that visits more than one location within the District, and who:</p> <ul style="list-style-type: none"> • Continually moves from location to location. • Does not wait in one location for more than 20 minutes. • Moves at least 50 metres from the last trading location; and • Does not return to the same trading location within 4 hours. • Does not trade within 100 metres of any entrance to any educational establishment (without formal invitation from the educational establishment).
Licensing Officer:	An Authorised Officer employed by the Council and authorised by the Council to act in pursuance of the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (the legislation regulating Street Trading).
Activities that do not require a Street Trading or Mobile Trading Consent:	<p>Trading:</p> <ul style="list-style-type: none"> • As a Pedlar under a Pedlar’s Certificate. • As a News Vendor • At a Market or fair, the right to hold which having been obtained by a grant, enactment or order. • At or adjoining a shop premises as part of the business of the shop. • As a Roundsman (i.e. delivering pre-ordered goods to customers). • From a licensed highway area • Under a Street Collection Permit for charitable purposes.

1. PURPOSE OF THE POLICY

- 1.1 This Policy sets out the framework for the management of Street Trading in the area for which Ashfield District Council has responsibility.
- 1.2 The powers to control Street Trading within the Council's area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.
- 1.3 The Council recognises the valuable contribution that Street Trading can make to the local culture and economy, and the services that Street Traders provide to residents and visitors. Street Trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.
- 1.4 Ashfield District Council is committed to improving the support provided to small businesses, ensuring that there are no unnecessary burdens placed on them, and that they are provided with sufficient guidance and advice to enable them to operate safely and successfully.
- 1.5 Issues can arise where Street Traders do not pay due regard to their location and operation, or make it dangerous for the public and road users to move around them. Street Trading can also result in littering and other nuisances to persons in the vicinity.
- 1.6 This Policy sets out the criteria the Council will use when considering applications for Street Trading Consents. It sets out the grounds upon which decisions are made about Street Trading applications, and any enforcement actions if required.
- 1.7 This Policy also supports the Council's commitment to work in partnership with other agencies and avoiding duplication with other statutory controls.
- 1.8 This Policy intends to promote a flexible approach in relation to applicants seeking to operate new Street Trading businesses, whilst also endeavoring to promote a well regulated Street Trading function by ensuring that such Trading does not become a source of nuisance or annoyance to those who live in, work in and visit the District.

2. POLICY CONSULTATION

2.1 In determining this Policy, the Council has consulted with the following:

- **Nottinghamshire Police**
- **Nottinghamshire Police Licensing Unit**
- **Nottinghamshire Fire & Rescue**
- **Nottinghamshire County Council Highways**
- **Nottinghamshire County Council Trading Standards**
- **Parish and Town Councils**
- **Current Street Traders**
- **Local businesses**
- **Residents**

2.2 In addition the Council's regulatory and enforcement services have been consulted. These include:

- **Planning**
- **Environmental Health**
- **Health & Safety**
- **Environmental Protection**
- **Environmental Services**
- **Economic Development**
- **Place & Communities**
- **Markets**
- **Car Parks**

3. DURATION OF POLICY

- 3.1 This Policy will be reviewed every 5 years. If required, periodic updates to the Policy may be carried out.
- 3.2 When reviewing this Policy, a consultation with the public, business, and holders of Consents will be carried out.

4. LEGISLATION & CURRENT PROVISIONS

4.1 The Act sets out a number of definitions and provisions:

Street Trading is defined as “the selling or exposing or offering for sale any article (include a living thing) in a street – subject to a number of exceptions,” such as:

- **Trading as a Pedlar under the authority of a Pedlar’s Certificate granted under the Pedlars Act 1871.**
- **Any trade in a Market or Fair, the right to hold which having been obtained by a grant, enactment or order.**
- **Trading in a trunk picnic road area provided by the Secretary of State under Section 112 of the Highways Act 1980.**
- **Trading as a News Vendor (subject to S.3. of the Act).**
- **Trading at premises used as a petrol filling station or from a street adjoining a shop premises as part of the business of the shop.**
- **Offering or selling things as a Roundsman.**
- **The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway.**
- **The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.**
- **The doing of anything authorised by regulations made under Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 for charitable purposes.**

4.2 Schedule 4 of the Act defines a street as any road, footway, beach or other area to which the public have access without payment, and a service area as defined in Section 329 of the Highways Act 1980.

4.3 A Consent Street is a street in which Street Trading can only take place if the consent of the Local Authority has first been obtained.

4.4 All streets within the Council's area are designated as Consent Streets, as such no trading may take place without the Council having issued a Street Trading Consent to the trader. A list of locations already designated as approved Street Trading locations can be found on the Council website.

4.5 The Council has determined that applications for a Street Trading Consent will be refused for locations that are deemed to be:

- **In close proximity to a place of worship;**
- **In close proximity to a place of education;**
- **In close proximity to a place of healthcare;**
- **In close proximity to a place of cultural or historical local / national significance;**
- **In close proximity to primarily residential properties;**
- **In close proximity to a business offering the same goods / services;**
- **Likely to undermine the safety and / or convenience of the general public and / or road users.**

- 4.5 Prohibited Streets are streets that have been designated as ones where no Street Trading may take place.
- 4.6 There are no Prohibited Streets within the Ashfield District Council area. The M1 is designated as a motorway and Street Trading is forbidden on motorways.
- 4.7 A Licence Street is a street that requires a formal Licence to have been granted before any Street Trading can take place.
- 4.8 There are no Licence Streets within the Council's area.
- 4.9 Street Traders who serve hot food or hot beverages at any time between 23:00 hours and 05:00 hours will also require a Premises Licence granted by the Licensing Authority in accordance with the Licensing Act 2003.

4.10 TYPES OF CONSENTS ISSUED BY THE COUNCIL

- 4.11 For the purposes of this Policy and to assist applicants, Ashfield District Council issues 4 types of Street Trading Consents, each specific in its nature:

- **Street Trading Consent:** Trading from a stall / unit / vehicle from a single designated location on a regular basis.
- **Mobile Trading Consent:** Trading from a vehicle at various locations across the Ashfield District, but for no more than 20 minutes at a time, and no location to be revisited within a 4 hour period.
- **Community & Charity Event Trading Consent:** Trading at non-profit making events (within the Ashfield District) held by a registered charity or community association, whether for a single day or for the duration of the entire event.
- **Special Event Trading Consent:** Trading at events (within the Ashfield District) where the organiser intends to make commercial gain, whether for a single day or for the duration of the entire event.

4.12 CONSULTATION PERIOD FOR STREET TRADING CONSENT APPLICATIONS

- 4.13 All Street Trading Consent applications (save for Mobile Traders, Community & Charity Event Traders, and Special Event Traders) for locations not already adopted by the Council will be subject to a 28 day consultation period.
- 4.14 The consultation will seek the views of local residents and businesses that may be directly affected, and statutory agencies whose responsibilities may be impacted by the proposed business.
- 4.15 Consideration will be given to all written representations that are not deemed to be irrelevant, frivolous, vexatious, or repetitive. Representations will be vetted by Officers of the Licensing Team for validity.
- 4.16 Applications subject to valid representations will be determined at a Hearing chaired by the Director: Place & Wellbeing, who is delegated authority by the Licensing Committee to determine such applications.

4.17 RELEVANT CONSIDERATIONS APPLICABLE TO ALL APPLICATIONS

4.18 The following criteria will be considered in deciding whether or not a Consent will be granted, and on what conditions:

a) Public Safety

Whether any Street Trading activity represents, or is likely to represent, a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions, or danger that may occur when a Trader is accessing the site. Nottinghamshire County Council Highways Department will be consulted on all applications to ensure high standards of road safety for applicants, the public and other road users.

b) Public Order

Whether the Street Trading activity represents, or is likely to represent, a risk to public order. Nottinghamshire Police will be consulted on all applications regarding public order.

c) Preventing Nuisance or Annoyance

Whether the Street Trading activity represents, or is likely to represent, a risk of nuisance or annoyance to the public from noise, odour, fumes, litter, or the discharge of fluids, particularly in areas of residential properties. The Council's Environmental Protection Team will be consulted on all applications with regard to the prevention of nuisance.

d) Written Representations from Local Residents

Residents will be alerted to Street Trading (fixed single sites only) applications via a yellow A4 notice erected at the proposed Street Trading location. The relevant District Ward Councillor will be consulted on applications for Street Trading Consents in their area.

e) Planning Permission

A Street Trading Consent will only be issued where planning permission has been granted or where there is written evidence that planning permission is not required.

f) Suitability of Proposed Trading Location

Applications for a Street Trading Consent will be refused for locations that are:

- **In close proximity to a place of worship;**
- **In close proximity to a place of education;**
- **In close proximity to a place of healthcare;**
- **In close proximity to a place of cultural or historical local / national significance;**
- **In close proximity to primarily residential properties;**
- **In close proximity to a business offering the same goods / services;**
- **Likely to undermine the safety and / or convenience of the general public and / or road users.**

g) Appearance of the Stall / Vehicle / Unit

Any stall or vehicle from which trading is permitted must be maintained and presented to the same standard as originally manufactured. Internal and external finishes must be free from defects or damage. Any stall or vehicle must meet with the criteria, including size, laid down in the standard conditions attached to the grant of any Street Trading or Mobile Trading Consent.

h) Food Traders

Applicants for stalls or vehicles selling food, must provide proof of registration and inspection with their local Food Authority/ Environmental Health Department.

This is to be evidence by way of the most recent **Food Hygiene Rating Scheme Score** that has been issued to them, as all businesses must be registered with the Food Safety Team (Environmental Health) in the district within which the stall or vehicle is kept overnight, and if such a district is not Ashfield District Council, the business is still required to notify the Ashfield District Council Food Safety Team that it is trading at a location within our area.

Should the business change its registered address, then a notification must be sent to both the Licensing Team and Food Safety Team at Ashfield District Council, in order that our records may be updated.

All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal Institute of Public Health and Hygiene.

5. DELEGATION OF FUNCTIONS

- 5.1 The Licensing Committee has a duty to recommend and review the Street Trading Policy, and to recommend and review the fees and charges applicable to Consents issued by the Council.
- 5.2 The Licensing Committee agrees and recommends the standard conditions that are attached to the grant of any Street Trading and / or Mobile Trading Consent issued by the Council.
- 5.3 The Director: Place & Communities is delegated authority by the Licensing Committee to determine applications for Street Trading and Mobile Trading Consents, and to review existing Consents should relevant information come to light that would bring into question the suitability of an existing Consent holder or the Consent held.
- 5.4 The Director: Place & Communities is authorised to:
- a) Issue Street Trading Consents and attach such conditions as are considered reasonably necessary under the Local Government (Miscellaneous Provisions) Act 1982.
 - b) Refuse any application for a Street Trading Consent that:
 - (i) In the opinion of the Director does not comply with the Council's Street Trading Policy or conditions applicable to Street Trading or Mobile Trading Consents; or
 - (ii) Has been subject to valid objections from Nottinghamshire Police, Nottinghamshire Fire & Rescue, or Nottinghamshire County Council Highways on the grounds of public or highway safety.
 - c) Review and (if necessary) vary the conditions attached to an existing Street Trading or Mobile Trading Consent when necessary to promote public safety and / or prevent nuisance or annoyance to any affected parties, or the Trader has failed to comply with the conditions of the Consent, or information has come to light as to the suitability of the Trader.
 - d) Review and (if necessary) suspend or revoke a Street Trading or Mobile Trading Consent issued to an existing Trader when necessary to promote public safety and / or prevent nuisance or annoyance to any affected parties, or the Trader has failed to comply with the conditions of the Consent, or information has come to light as to the suitability of the Trader.

6. CONDITIONS ATTACHED TO STREET TRADING CONSENTS

- 6.1 The Council will apply standard conditions to all Street Trading and Mobile Trading Consents.
- 6.2 The standard conditions applied to Street Trading Consents are attached to this Policy at **Appendix One**.
- 6.3 The standard conditions applied to Mobile Trading Consents are attached to this Policy at **Appendix Two**.
- 6.4 These standard conditions are not exhaustive and other conditions may be added to individual consents as required to meet with the criteria of this Policy.
- 6.5 Street Trading may only be carried out from the stall / vehicle / unit authorised under the conditions of the Street Trading Consent.
- 6.6 Mobile Trading may only be carried out from the vehicle authorised under the conditions of the Mobile Trading Consent.
- 6.6 Any changes to or replacement of the approved stall / vehicle / unit must first be approved by the Licensing Authority before such a vessel may be used for the purposes of Street Trading or Mobile Trading.

7. STREET TRADING CONSENTS

7.1 PROCEDURE: MAKING A STREET TRADING CONSENT APPLICATION

- 7.2 A list of currently adopted Street Trading locations (including those currently vacant) can be found on the Council website.
- 7.3 Applications for a Street Trading Consent to be issued for locations not currently adopted will be welcomed, however applicants are strongly advised to refer to the section within this Policy that details where such locations would be deemed not suitable for trading.
- 7.4 Applicants who submit an application for a location not already adopted shall place a Yellow A4 Notice at the proposed trading site detailing the application and consultation period. A template is available from the Council website.
- 7.5 All applications for the grant of a new Street Trading Consent, or to renew an existing Street Trading Consent must be submitted to the Licensing Team, and shall include the following:
- **The completed Street Trading Consent Application Form.**
 - **The completed Direct Debit Mandate (if paying by monthly instalments).**
 - **Current Food Hygiene Rating Scheme Score and Level 2 Food Hygiene Certificate (if a food business).**
 - **Current Electrical and Gas Safety Certificates (if applicable).**
 - **Current Public Liability Insurance (to a minimum value of £5,000,000).**
 - **Evidence that the applicant and any person(s) operating the stall / vehicle / unit holds a valid right to work in the U.K.**
 - **Evidence of consent given by the landowner for the business to trade from the location (private land only).**
 - **Evidence that Planning Permission has been granted, or is not required (private land only).**
 - **A map showing the proposed trading site, and showing all streets and other public areas covering a 200 metre radius surrounding the proposed Street Trading location.**
 - **Photographs of the stall / vehicle / unit from which trading is to take place (the photographs must clearly show the internal and external visual condition of the unit and all signage affixed to it).**
 - **Copy of the A4 Yellow Notice placed at the proposed trading site (only applicable to new sites not already adopted by the Council).**
- 7.6 On the first working day following receipt of your completed application form and all other necessary documents, and payment of the application fee (or part-fee if payment is to be made by way of monthly direct debit instalments), a 28 day consultation will commence with relevant stakeholders.
- 7.7 If there are no valid objections received during the consultation period, or any concerns that may arise in relation to the application are resolved, then a Street Trading Consent will be issued for a maximum period of 12 months or a minimum period of 6 months (upon request by the applicant).

7.8 DETERMINATION OF APPLICATIONS

- 7.9 Officers of the Licensing Team will evaluate all applications in order to assess the suitability of the applicant and the suitability of the specified trading location.
- 7.10 A Street Trading Consent will be automatically granted if the application meets with the criteria of the Street Trading Policy, and that there are no valid objections outstanding at the end of the 28 day consultation period applicable to all applications for a new trading site.
- 7.11 Where an application is the subject of valid objections that remain unresolved by the end of the 28 day consultation period, the application will be referred to the Director: Place & Communities and a Hearing convened to determine the application.
- 7.12 The Director will determine each application on its own merits, taking into consideration all information attached to the application, the comments of the objectors, and any information provided by the Licensing Team in relation to the applicant, the nature of the business, and the proposed location.
- 7.13 Following the determination of an application, the Licensing Authority will notify the applicant (and any objectors) of the decision (and the reasons for the decision), within 10 working days of the Hearing.
- 7.14 There is no statutory right of appeal against a refusal to issue a Street Trading Consent, or against the conditions that may be attached to the grant of a Street Trading Consent.

7.15 GRANT OF APPLICATIONS

- 7.16 The applicant will be advised by letter that the Street Trading Consent has been granted. The Street Trading Consent will be enclosed with the letter, and attached to the Street Trading Consent will be the standard conditions (and any additional conditions if the application was determined at a Hearing) imposed by the Council, which must be adhered to at all times.

7.17 DURATION OF STREET TRADING CONSENTS

- 7.18 Any Street Trading Consent granted, will be issued for a maximum period of 12 months, or a minimum period of 6 months (if requested by the applicant).
- 7.19 An application to renew an existing Street Trading Consent must be submitted to the Licensing Authority prior to the current Consent expiring (ideally no later than 28 days prior to the expiry date), and all necessary documents to satisfy the Councils criteria must be submitted every time a renewal application is made.

7.20 REFUSAL OF APPLICATIONS

- 7.21 Where an application is refused, the applicant will be informed in writing as to the reasons for the refusal.
- 7.22 There is no right of appeal to the Magistrates Court following the refusal of an application.

7.23 A person aggrieved by a decision of the Council may make an application to the High Court for the judicial review of the decision. For further information on potential grounds for judicial review, applicants should seek independent legal advice.

7.24 TRANSFER OF STREET TRADING CONSENTS

7.25 Under no circumstances may a Street Trading Consent be transferred or sold to another person, save for such a person being a documented business partner or a member of the Street Traders immediate family in the event of the Traders death or incapacity.

7.26 The sub-letting of a Street Trading Consent to another party is not permitted.

8. MOBILE TRADING CONSENTS

8.1 Traders that meet with the criteria detailed below will be classified as Mobile Traders. Ice cream vans and mobile sandwich sellers (i.e they do not have specific customers to whom they visit on a “round”) would typically be deemed to be Mobile Traders.

8.2. A Mobile Trader is one who:

- **Moves from location to location;**
- **Moves at least 50 metres from his / her last trading location and does not return to that location within four hours;**
- **Does not wait in one location for more than 20 minutes; and**
- **Does not trade within 100 metres of any entrance to any educational establishment (without having first received a formal invitation from the educational establishment).**

8.3 Due to the nature of their trade over a wide geographical area and their limited impact upon a single location, Mobile Traders will automatically be granted a Mobile Trading Consent, subject to the applicant and application meeting all of the above criteria.

8.4 However, certain restrictions are required in order to prevent harmful competition, any negative impact on locations, and to protect the business interests of existing permanent premises selling similar goods and services to those that may potentially be offer by Mobile Traders. These restrictions are:

- **That Mobile Trading may not take place from any Council owned park or recreational space during the operating hours of any existing permanent structure selling similar goods and services as those proposed to be offered by the Mobile Trader; and**
- **That no location may be occupied by more than one Mobile Trader at any given time.**

8.5 Mobile Trading Consents are granted for periods of 12 months (or 6 months if requested by the applicant), and require renewal before the expiry of any current Mobile Trading Consent that has been granted.

8.6 PROCEDURE: MAKING A MOBILE TRADING CONSENT APPLICATION

8.7 All applications for the grant or renewal of a new Mobile Trading Consent shall include the following:

- **The completed Mobile Trading Consent Application Form;**
- **The completed Direct Debit Mandate (if paying by monthly instalments).**
- **Current Food Hygiene Rating Scheme Score and Level 2 Food Hygiene Certificate (if a food business).**
- **Current Electrical and Gas Safety Certificates (if applicable).**
- **Current Public Liability Insurance (to a minimum value of £5,000,000).**
- **Evidence that the applicant and any person(s) operating the vehicle holds a valid right to work in the U.K.**

- **A map / maps showing the proposed trading sites, and showing all streets and other public areas covering a 200 metre radius surrounding the proposed Mobile Trading locations.**
- **Photographs of the vehicle from which trading is to take place (the photographs must clearly show the internal and external visual condition of the vehicle and all signage affixed to it).**
- **Evidence that the vehicle may legally be driven on the highway be way of a valid M.O.T., valid Motor Insurance and valid Vehicle Excise Duty.**

8.8 DETERMINATION OF APPLICATIONS

- 8.9 Officers of the Licensing Team will evaluate all applications in order to assess the suitability of the applicant and the suitability of the specified trading locations.
- 8.10 A Mobile Trading Consent will be automatically granted if the application meets with the criteria of the Street Trading Policy.
- 8.11 Where an application is deemed by the Officers of the Licensing Team to not meet with the criteria of this Street Trading Policy, the application will be referred to the Director: Place & Communities and a Hearing convened to determine the application.
- 8.12 The Director will determine each application on its own merits, taking into consideration all information attached to the application, and any information provided by the Licensing Team in relation to the applicant, the nature of the business, and the proposed locations.
- 8.13 Following the determination of an application, the Licensing Authority will notify the applicant (and any objectors) of the decision (and the reasons for the decision), within 10 working days of the Hearing.
- 8.14 There is no statutory right of appeal against a refusal to issue a Mobile Trading Consent, or against the conditions that may be attached to the grant of a Consent.

8.15 GRANT OF APPLICATIONS

- 8.16 The applicant will be advised by letter that the Mobile Trading Consent has been granted. The Mobile Trading Consent will be enclosed with the letter, and attached to the Mobile Trading Consent will be the standard conditions (and any additional conditions if the application was determined at a Hearing) imposed by the Council, which must be adhered to at all times.

8.17 DURATION OF MOBILE TRADING CONSENTS

- 8.18 Any Mobile Trading Consent granted, will be issued for a maximum period of 12 months, or a minimum period of 6 months (if requested by the applicant).
- 8.19 An application to renew an existing Mobile Trading Consent must be submitted to the Licensing Authority prior to the current Consent expiring, and all necessary documents to satisfy the Councils criteria must be submitted every time a renewal application is made.

8.20 REFUSAL OF APPLICATIONS

- 8.21 Where an application is refused, the applicant will be informed in writing as to the reasons for the refusal, specifying the grounds for the decision.
- 8.22 There is no right of appeal to the Magistrates Court following the refusal of an application. A person aggrieved by a decision of the Council may make an application to the High Court for the judicial review of the decision. For further information on potential grounds for judicial review, applicants should seek independent legal advice.

8.23 TRANSFER OF MOBILE TRADING CONSENTS

- 8.24 Under no circumstances may a Mobile Trading Consent be transferred or sold to another person, save for such a person being a documented business partner or a member of the Mobile Traders immediate family in the event of the Traders death or incapacity.
- 8.25 The sub-letting of a Mobile Trading Consent to another party is not permitted.

9. COMMUNITY & CHARITY EVENT TRADING CONSENT

9.1 Traders at an event organised and run by a registered charity or recognised community association (or other non-profit making organisation) for public benefit will be exempt from the requirement to obtain a Special Events Trading Consent for the location of the event, subject to the following restrictions:

- **Traders cannot remain at the event location for any period other than for the duration of the event.**
- **Traders must be invited to trade at the event by the event organisers**
- **Traders of hot foods and / or hot non-alcoholic beverages operating after 23:00 hours, or Traders selling alcohol, must submit a Temporary Event Notice in accordance with the requirements of the Licensing Act 2003.**
- **That the organisers of the event make no “commercial gain” from the event (i.e. that all profits made are put back into the purpose of the registered charity / community association).**
- **That the Traders make a financial contribution from any profits made to the community and / or charity for which the event is held.**
- **That no more than 4 Traders are permitted to attend the event.**
- **That when events are held on Council owned parks and recreational spaces, that the goods and services offered by Traders are not similar to those provided during the operating hours of any permanent structure sited at that location.**

9.2 PROCEDURE: MAKING A COMMUNITY & CHARITY EVENT TRADING APPLICATION

9.3 The event organiser will notify the Events Team at Ashfield District Council of the intended event.

9.4 Within the Event Application submitted by the event organiser to the Council, details of each trader and the goods being sold from each stall / vehicle / unit will be provided.

9.5 The Events Team at the Council will forward a copy of the Event Application to the Licensing Team.

9.6 The Events Team at the Council will consult with the Licensing Team at the Council to determine whether the event is “not for profit”, and to establish that the Traders are making a financial contribution from any profits they make to the community and / or charity for which the event is held.

9.7 If the Licensing Team deem the event to be “not for profit” and that the Traders are making a financial contribution from any profits they make to the community and or charity for which the event is held, the Events Team will be notified, and the Events Team will confirm this status to event organiser, and forward a Community & Charity Event Trading Consent to the event organiser to provide to each Trader attending the event.

9.8 If the Licensing Team deem the event to be for “commercial gain”, the Licensing Team will notify the Events Team, and the Events Team will confirm this status to the event organiser, and a Special Event Trading Consent Application Form will be sent to the event organiser.

10. SPECIAL EVENTS TRADING CONSENTS

10.1 Traders attending an event organised for “commercial gain”, require a Special Events Trading Consent to be granted to the event organiser, subject to the following restrictions:

- **Traders cannot remain at the event location for any period other than for the duration of the event.**
- **Traders must be invited to trade at the event by the event organiser.**
- **Traders of hot foods and / or hot non-alcoholic beverages operating after 23:00 hours, or Traders selling alcohol, must submit a Temporary Event Notice in accordance with the requirements of the Licensing Act 2003.**
- **Traders must provide evidence of a current Food Hygiene Rating Scheme Score (if a food business).**
- **Traders must provide evidence of current Electrical and Gas Safety Certificates for their stalls / vehicles / units (if applicable).**
- **Traders must provide evidence of holding current Public Liability Insurance (to a minimum value of £5,000,000).**
- **Traders must provide evidence that they and any person(s) operating the stall / vehicle / unit holds a valid right to work in the U.K.**
- **That no more than 4 Traders are permitted to attend the event.**
- **That when events are held on Council owned parks and recreational spaces, that the goods and services offered by Traders are not similar to those provided during the operating hours of any permanent structure sited at that location.**

10.2 PROCEDURE: MAKING A SPECIAL EVENT TRADING APPLICATION

10.3 The event organiser will notify the Events Team (if on public land) or the Licensing Team (if on private land) at Ashfield District Council of the intended event.

10.4 The Licensing Team will contact the event organiser to discuss the proposed trading at the event, and forward a Special Event Trading Application Form to the event organiser for completion, submission and payment of the appropriate fee.

10.5 The fee payable by the event organiser will depend on the number of trading stalls attending the event. Details as to the fees applicable to Special Event Trading Consents can be found on the Councils website or on enquiry to the Licensing Authority.

10.6 If any stall / vehicle / unit at the event sells alcohol, or provides hot food and / or hot beverages after 11.00 p.m. the Licensing Team will advise the event organiser that a Temporary Event Notice granted in accordance with the Licensing Act 2003 will be required to cover these licensable activities.

10.7 A copy of the Special Event Trading Consent (listing each Trader) must be displayed at all stalls / vehicles / units trading at the event.

11. MARKETS

- 11.1 Markets (including Temporary Markets) held in the market towns of the District fall outside of the scope of the Street Trading Policy.
- 11.2 A market is comprised of not less than five stalls, stands, vehicles or pitches from which articles are sold and may sometimes be held as part of a wider event. The Ashfield District Council Market Policy can be found online at: **www.ashfield.gov.uk/markets**
- 11.3 Alternatively Ashfield Markets can be contacted on 01623 551385, or by email at: **markets@ashfield.gov.uk**
- 11.4 The Council has adopted two locations for Street Trading where local markets take place, but Street Trading is not permitted at these locations during the hours that the Markets are in operation.

12. ENFORCEMENT

- 12.1 The Council is committed to enforcing the provisions contained within the relevant legislation, and to work in partnership with all enforcement agencies, in order to promote a consistent, transparent and proportionate approach to the enforcement of licensing matters.
- 12.2 Where licensable activities are conducted without the relevant permissions having been granted by the Licensing Authority, or where conditions / permitted trading hours are breached, the Council will gather evidence and take the necessary enforcement actions as required.

13. FEES & CHARGES

- 13.1 Fees are set and reviewed annually on a full cost recovery basis.
- 13.2 The level of fees applicable to the Street Trading function takes into account the administrative costs associated with the consideration of applications, the issue and administration of the Consent, and the costs associated with compliance checks carried out by the Licensing Authority to ensure that Traders operate in accordance with the conditions of their Consent.
- 13.3 Details as to the fees applicable to the Street Trading function can be found on the Councils website or on enquiry to the Licensing Authority.
- 13.4 Details as to acceptable payment options can be found on the Council website or on enquiry to the Licensing Authority.
- 13.5 No application will be deemed valid until payment of the appropriate fee (or payment of the initial fee if opting to pay by monthly instalments), and all agreed instalment plans must be maintained in accordance with the terms of the payment agreement.
- 13.6 Where trading ceases during the term of a Street Trading Consent or Mobile Trading Consent, refunds will not be issued for any outstanding period of less than three months.
- 13.7 Where a Special Event Trading Consent has been granted, no refund will be issued should a Trader not attend the event, or the event is cancelled.

14. EQUALITY AND DIVERSITY

- 14.1 Ashfield District Council is committed to promoting equal opportunities, valuing diversity and tackling social exclusion.

The Council will aim to provide opportunities that meet the diverse needs of different people and groups of people by ensuring that services and employment opportunities are accessible to all.

Everyone will be treated fairly and with respect. Diverse needs will be understood and valued. The Council will aim to eradicate all forms of discrimination.'

Further information on the Council's policy can be viewed on the website at: **www.ashfield.gov.uk**

- 14.2 Advice and guidance will be made available in English which is the most common language of customers and stakeholders.

On request the Council will signpost customers to providers of guidance and information relating to translation services.

15. LICENSING AUTHORITY CONTACT DETAILS

Licensing Team
Ashfield District Council
Council Offices
Urban Road
Kirkby in Ashfield
Nottinghamshire
NG17 8DA

Tel: 01623 457589

Email: licensing@ashfield.gov.uk

Web: www.ashfield.gov.uk/streettrading

APPENDIX A: STANDARD CONDITIONS - STREET TRADING CONSENTS

1. No trading to which this Street Trading Consent attached consent relates shall take place other than in accordance with the times and days stated on the Street Trading Consent.
2. The holder of the Street Trading Consent shall ensure that the stall / vehicle / unit is positioned only in the designated space of the location for which the Street Trading Consent is granted.
3. Trading shall only be carried out from the stall / vehicle / unit detailed within the application for which this Street Trading Consent is granted.
4. The holder of the Street Trading Consent shall ensure that the stall / vehicle / unit is kept in a clean, safe and well maintained condition, and be of an appearance acceptable to the Council.
5. The Street Trading Consent holder shall conduct the business in such a manner to ensure that:
 - no nuisance is caused to the occupiers of premises / properties in the immediate vicinity;
 - no obstruction is caused to other vehicles or pedestrians by the siting of the stall / vehicle / unit;
 - no danger is caused to occupiers of premises / properties in the immediate vicinity, or to other users of the location of the stall / vehicle / unit.
6. The holder of the Street Trading Consent shall provide customers with a means of disposal for any litter associated with the sales of goods from the stall / vehicle / unit.
7. The holder of the Street Trading Consent shall ensure that the trading location is left clear of refuse at the completion of trading each day; and that the area in the immediate vicinity of the stall/ vehicle / unit is kept clear of all refuse originating from their trade at all times.
8. The holder of the Street Trading Consent shall ensure that all waste originating from their trade is disposed of responsibly and in an environmentally-friendly manner.
9. The holder of the Street Trading Consent shall not provide any facilities such as tables or seating (either internally or externally) without having first sought the permission of the Council. Should the provision of tables and seating be likely to result in a nuisance or annoyance to those occupiers of premises and properties in the immediate vicinity or present a danger to the users of the street, such permission will not be granted, or any previous permission will be rescinded.
10. The holder of the Street Trading Consent shall seek the approval of the Council prior to affixing any signage, livery or and advertisements to the stall / vehicle / unit.
11. The holder of the Street Trading Consent shall notify the Council of any proposed changes to be made to the stall / vehicle / unit to which the Street Trading Consent is granted, and shall not undertake such changes until the Council has first approved the proposals.

12. The holder of the Street Trading Consent shall notify the Council of any proposed replacement stall / vehicle / unit to which the Street Trading Consent is granted, and shall not replace the existing stall / vehicle / unit until the Council has first approved the proposed replacement stall / vehicle / unit.
13. The holder of the Street Trading Consent shall comply with all statutes, statutory instruments and byelaws currently in force; in particular the requirements of the Health & Safety at Work Act 1974, the Food Safety Act 1990 and associated regulations, The Food Hygiene (England) Regulations 2006 and the Environmental Protection Act 1990.
14. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal Institute of Public Health and Hygiene.
15. The holder of the Street Trading Consent shall take adequate precautions to prevent the risk of fire at the stall / vehicle / unit. A serviceable fire blanket and suitable fire extinguisher/s shall be provided at all times.
16. The holder of the Street Trading Consent shall ensure that where the stall / vehicle / unit has a 240 volt electrical system that an up to date annual electrical safety certificate is in force.
17. The holder of the Street Trading Consent shall ensure that where gas cylinders are used that an up to date annual gas safety certificate is in force.
18. The holder of the Street Trading Consent shall ensure that a first aid kit is maintained on the stall / vehicle / unit and made available to any customers injured by the activities of the business operation.
19. The holder of the Street Trading Consent shall notify the Council as to the identity of any person employed to operate his / her stall / vehicle / unit.
20. The holder of the Street Trading Consent shall not sub-let his / her stall / vehicle / unit to another person.
21. The holder of the Street Trading Consent shall ensure that the Street Trading Consent issued by the Council is clearly displayed within the stall / vehicle / unit when trading, and is to be produced on demand to any Authorised Officer.
22. The holder of the Street Trading Consent shall have and maintain a proper insurance policy against public liability and third-party risks. The minimum insurance cover shall be £5,000,000 and shall cover the holders' stall / vehicle / unit and any additional equipment under their control.
23. The holder of the Street Trading Consent shall maintain any instalment plan for the payment of the Street Trading Consent issued by the Council in accordance with the terms of the instalment arrangement. Failure to adhere to the terms of the instalment arrangement shall likely result in the forfeiture of the Street Trading Consent.
24. The holder of the Street Trading Consent shall understand that any failure to comply with the conditions and permitted trading hours attached to the Street Trading Consent may result in the Street Trading Consent being revoked.

APPENDIX B: STANDARD CONDITIONS: MOBILE TRADING CONSENTS

1. No trading to which this Mobile Trading Consent relates shall take place other than in accordance with the times and days stated on the Mobile Trading Consent.
2. No trading to which this Mobile Trading Consent relates shall take place at any Council owned park or recreational spaces during the operating hours of any permanent structure sited at such a location that offers similar goods and services.
3. No trading to which this Mobile Trading Consent relates shall take place other than from the permitted vehicle stated on the Mobile Trading Consent.
4. The holder of the Mobile Trading Consent shall ensure that when carrying out the trading activities permitted on the Mobile Trading Consent that:
 - The vehicle shall not wait in one location for more than twenty minutes.
 - The vehicle shall move at least 50 metres from the last trading location and shall not return to that location within four hours.
 - The vehicle shall move from location to location within the permitted area.
 - The vehicle shall not trade or park within 100 metres of any entrance to any educational establishment, unless a prior formal invitation has been issued by the educational establishment.
5. The holder of the Mobile Trading Consent shall ensure that the vehicle is kept in a clean, safe and well-maintained condition, and be of an appearance acceptable to the Council.
6. The holder of the Mobile Trading Consent shall conduct the business in such a manner to ensure that:
 - no nuisance is caused to the occupiers of premises / properties in the immediate vicinity;
 - no obstruction is caused to other vehicles or pedestrians by the siting of the vehicle;
 - no danger is caused to occupiers of premises / properties in the immediate vicinity, or to other users of the location of the vehicle.
7. The holder of the Mobile Trading Consent shall provide customers with a means of disposal for any litter associated with the sales of goods from the vehicle.
8. The holder of the Mobile Trading Consent shall ensure that all waste originating from their trade is disposed of responsibly and in an environmentally-friendly manner.
9. The holder of the Mobile Trading Consent shall seek the approval of the Council prior to affixing any signage, livery or and advertisements to the vehicle.
10. The holder of the Mobile Trading Consent shall notify the Council of any proposed changes to be made to the vehicle to which the Mobile Trading Consent is granted, and shall not undertake such changes until the Council has first approved the proposals.
11. The holder of the Mobile Trading Consent shall notify the Council of any proposed replacement vehicle to which the Mobile Trading Consent is granted, and shall not replace the existing vehicle until the Council has first approved the proposed replacement vehicle.

12. The holder of the Mobile Trading Consent shall comply with all statutes, statutory instruments and byelaws currently in force; in particular the requirements of the Health & Safety at Work Act 1974, the Food Safety Act 1990 and associated regulations, The Food Hygiene (England) Regulations 2006 and the Environmental Protection Act 1990.
13. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal institute of Public Health and Hygiene.
14. The holder of the Mobile Trading Consent shall take adequate precautions to prevent the risk of fire in the vehicle. A serviceable fire blanket and suitable fire extinguisher/s shall be provided at all times.
15. The holder of the Mobile Trading Consent shall ensure that where the vehicle has a 240 volt electrical system that an up to date annual electrical safety certificate is in force.
16. The holder of the Mobile Trading Consent shall ensure that where gas cylinders are used that an up to date annual gas safety certificate is in force.
17. The holder of the Mobile Trading Consent shall ensure that a first aid kit is maintained in the vehicle to treat any customers injured by the activities of the business operation.
18. The holder of the Mobile Trading Consent shall notify the Council as to the identity of any person employed to operate his / her vehicle.
19. The holder of the Mobile Trading Consent shall not sub-let his / her vehicle to another person.
20. The holder of the Mobile Trading Consent shall ensure that the Mobile Trading Consent issued by the Council is clearly displayed within the vehicle when trading, and is to be produced on demand to any Authorised Officer.
21. The holder of the Mobile Trading Consent shall have and maintain a proper insurance policy against public liability and third-party risks. The minimum insurance cover shall be £5,000,000 and shall cover the holders' vehicle and any additional equipment under their control. Proof of such cover must be produced to an Authorised Officer on demand.
22. The holder of the Mobile Trading Consent shall maintain any instalment plan for the payment of the Mobile Trading Consent issued by the Council in accordance with the terms of the instalment arrangement. Failure to adhere to the terms of the instalment arrangement shall likely result in the forfeiture of the Mobile Trading Consent.
23. The holder of the Mobile Trading Consent shall understand that any failure to comply with the conditions attached to the Mobile Trading Consent may result in the Mobile Trading Consent being revoked.
24. The holder of the Mobile Trading Consent shall understand that should evidence be obtained that trading has occurred outside of the times and days permitted, or at locations within the Ashfield District not listed on the Mobile Trading Consent that he / she may be prosecuted for committing an offence.

Report To:	LICENSING COMMITTEE	Date:	28TH OCTOBER 2020
Heading:	HACKNEY CARRIAGE & PRIVATE HIRE LICENSING POLICY: UPDATED FOLLOWING ISSUE OF STATUTORY GUIDANCE		
Portfolio Holder:	REGULATORY SERVICES		
Ward/s:	ALL		
Key Decision:	YES		
Subject to Call-In:	NO		

Purpose of Report

In July 2020 the Department for Transport issued new Statutory Guidance on Taxi & Private Hire Vehicle Standards focusing on the role of taxi licensing powers and enhanced regulation in protecting children and vulnerable adults. The guidance sets out core minimum standards that all licensing authorities are expected to meet. In order to further safeguard vulnerable passengers, increase safety for the travelling public in general and comply with the statutory guidance changes to the Hackney Carriage and Private Hire Licensing Policy are proposed.

Recommendation(s)

The Licensing Committee is recommended to:

- a) Approve the proposed updates and amendments to the requirements placed on drivers, vehicle proprietors and operators seeking to hold or who currently hold a licence with the Council;**
- b) Approve the proposed updates and amendments to the Warnings, Offences, Cautions and Convictions Policy (contained within the Hackney Carriage & Private Hire Licensing Policy) in light of the Statutory Guidance recommendations;**
- c) Authorise the Licensing Manager to carry out a consultation on the proposals detailed within this report; and**
- d) Delegate authority to the Chair of the Licensing Committee, in conjunction with the Service Director: Place & Communities, to consider any responses to the consultation and make any relevant changes the Draft Policy to finalise accordingly.**

Reasons for Recommendation(s)

The Council has in place a robust Hackney Carriage & Private Hire Licensing Policy that was introduced on 1st May 2018. Following the findings of various Serious Case Reviews in to incidents

of child sexual exploitation and safeguarding failures linked to taxi licensing nationwide, the Department for Transport has issued Statutory Guidance with the aim of raising and regularising safeguarding standards around the country.

The guidance sets out a framework of policies that the authority must have regard to when developing, implementing and reviewing taxi and private hire vehicle licensing. The Council as a licensing authority is committed to ensuring the safety of passengers and therefore it is proposed that the current policy is reviewed and updated to take account of the recommended standards where they are not already met or exceeded.

Alternative Options Considered

Do nothing: not recommended as the requirement to introduce the provisions of the Statutory Standards is designed to ensure that all Councils carry out their Taxi & Private Hire Licensing functions to the same robust standards. The Council has a legal duty to give full consideration to the standards laid out in the guidance.

Detailed Information

The current Hackney Carriage & Private Hire Licensing Policy came into effect on 1st May 2018 and has proved to be extremely effective in ensuring that those applicants and / or licence holders that do not take seriously the need to safeguard children and vulnerable persons or promote the need for public safety and public confidence in the Trade are adequately dealt with.

However, not all Councils work to the same standards in relation to vetting applicants, monitoring existing licence holders, and taking decisions relating to criminal convictions and motoring convictions, meaning that those who seek to undermine safeguarding and public safety objectives may well obtain a licence from an Authority that has less robust policies and procedures in place.

Members will be all too aware of the high profile cases across the country where children and vulnerable persons have been the subject of abuse, exploitation and trafficking, and the Statutory Taxi & Private Hire Vehicles Standards (attached at **Appendix One**) aim to advance the obligations on Licensing Authorities to adopt and promote robust policies and procedures to safeguard the travelling public.

Owing to the Policy already in place, the additional requirements placed on the Council by the Statutory Standards can be easily implemented, and these requirements are listed below (and highlighted in yellow within the Draft Revised Hackney Carriage & Private Hire Licensing Policy attached at **Appendix Two**):

Drivers: To undertake an Enhanced DBS Check every six months (we currently carry these out annually). We would also check the status of their DVLA Driver Licence at the same time.

To report any arrest, charge, caution, or convictions (whether motoring or criminal) within 48 hours.

Vehicle Licence Applicants / Holders: To provide a Basic DBS Check and it be reviewed annually. To ensure that such a person is not involved in any activity that may undermine the safeguarding and public safety objectives.

Private Hire Operators: To be subject to annual Basic DBS Checks (such a check is currently only required when submitting a new / renewal application).

The Statutory Standards also place new obligations on **Private Hire Operators**, namely:

- To maintain a register of all staff whose work consists of taking bookings and dispatching vehicles, and for such staff to undergo a Basic DBS Check;
- To maintain a Policy relating to the employment of ex-offenders, in order to ensure such persons do not pose a risk to the safety of the public;
- To maintain a Safeguarding Policy that addresses the needs of the protection of children and vulnerable persons; and
- To evidence that any other Operator to whom a booking is sub-contracted also has the necessary comparable Safeguarding protections in place.

It is proposed, in order to embed the above four requirements, that they are implemented as additional conditions attached to a Private Hire Operator Licence, and compliance with these new conditions will be sought when Officers carry out compliance checks of Operator premises.

The Statutory Standards also seek all Councils to adopt the same criteria in relation to how applicants and licence holders are assessed in relation to any criminal convictions and / or motoring convictions.

Our **Warnings, Offences, Cautions and Convictions Policy** (found at Appendix D within the Draft Revised Hackney Carriage & Private Hire Licensing Policy) ensures a robust vetting process and a robust decision making process when assessing applicants and existing licence holders, and whilst the Statutory Standards do not require a radical overhaul of how we assess such criminal and / or motoring matters, it does enhance what is already in place, and provides a strong platform from which to defend any appeal made by any person who is refused a licence, or has his / her licence suspended or revoked.

By amending our own Policy to be identical to the Statutory Standards, this Council can continue to carry out its Taxi & Private Hire Licensing function safe in the knowledge that the standards that we expect applicants and licence holders to meet are the “gold standard”.

The most significant amendments to the **Warnings, Offences, Cautions and Convictions Policy** (which have led to an increase in the time spent before an application should be considered for the offences listed below) relate to:

- **Exploitation:** where the expectation is that applicants with such convictions are refused a licence;
- **Violence:** where the expectation is that at least 10 years have elapsed since the completion of any sentence imposed;
- **Possession of a weapon:** where the expectation is that at least 7 years have elapsed since the date that any sentence was completed;
- **Dishonesty:** that at least 7 years have elapsed since the completion of any sentence served;
- **Discrimination:** that at least 7 years have elapsed since the completion of any sentence served;
- **Driving whilst under the influence of drink and / or drugs:** that at least 7 years have elapsed since the restoration of the DVLA Driver Licence;
- **Driving whilst using a hand-held mobile telephone or hand-held device:** that at least 5 years to have elapsed since conviction and / or restoration of the DVLA Driver Licence; and
- **Plying for Hire:** a Driver is expected to be 3 years free of conviction, and that any Operator guilty of aiding and abetting such illegal actions should expect to have his / her licence immediately revoked, and prevented from holding an Operator Licence for 3 years.

Such updates and amendments to the Hackney Carriage & Private Hire Licensing Policy will require public consultation (which will be hosted online at www.ashfield.gov.uk/taxilicensing) and a Newsletter will be sent to all drivers, vehicle proprietors and operators, and the results of the

consultation and any responses received will be put to the Chair of the Licensing Committee, in conjunction with the Service Director: Place & Communities, to consider, and to make any relevant changes the Draft Policy to finalise accordingly.

However, as stated within the Statutory Standards: *“ There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**”*

Implications

Corporate Plan:

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Legal:

Any legal implications are already covered within this report.

Finance:

The additional cost of administering the Taxi & Private Hire licensing function will be circa £15k per annum, however, the service operates on the basis of full cost recovery.

This report is effective from **28th October 2020** and has the following financial implications.

Budget Area	Implication
General Fund – Revenue Budget	£15,000
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carry out its licensing functions and decision making processes.

Human Resources:

There are no direct HR implications contained within this report.

Environmental/Sustainability

There are no environmental or sustainability implications contained within this report.

Equalities:

There are no diversity or equality implications contained within this report.

Other Implications:

None

Reason(s) for Urgency

The Statutory Standards were issued to Councils in late July 2020, and the Council is keen to ensure that it promotes the aims of these Standards, in order to advance the safeguarding of children and vulnerable persons throughout the locality, and to further enhance public confidence in the local Taxi & Private Hire Trade.

Reason(s) for Exemption

Not applicable

Background Papers

Appendix One: Department for Transport: Statutory Taxi & Private Hire Vehicle Standards

Appendix Two: Draft Revised Hackney Carriage & Private Hire Licensing Policy

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Department
for Transport

APPENDIX ONE

Statutory Taxi & Private Hire Vehicle Standards

Contents

	Page
1. Introduction.....	4
2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards.....	6
3. Administering the Licensing Regime.....	8
Licensing polices	8
Duration of licences	9
Whistleblowing.....	9
Consultation at the local level	10
Changing licensing policy and requirements	10
4. Gathering and Sharing Information.....	12
The Disclosure and Barring Service	12
The Disclosure and Barring Service Update Service	13
Common Law Police Disclosure	13
Licensee self-reporting	13
Referrals to the Disclosure and Barring Service and the Police	14
Working with the Police	15
Sharing licensing information with other licensing authorities.....	15
Multi-agency Safeguarding Hub (MASH).....	16
Complaints against licensees	17
Overseas convictions	17
5. Decision Making	19
Administration of the licensing framework	19
Training decision makers.....	19
The regulatory structure	20
Fit and proper test	21
Criminal convictions and rehabilitation	21
6. Driver Licensing.....	23
Criminality checks for drivers.....	23
Safeguarding awareness.....	23
‘County lines’ exploitation	24
Language proficiency	25

7. Vehicle Licensing.....	26
Criminality checks for vehicle proprietors	26
In-vehicle visual and audio recording – CCTV.....	27
Stretched Limousines	28
8. Private Hire Vehicle Operator Licensing	29
Criminality checks for private hire vehicle operators.....	29
Booking and dispatch staff.....	30
Record keeping	31
Use of passenger carrying vehicles (PCV) licensed drivers	31
9. Enforcing the Licensing Regime	33
Joint authorisation of enforcement officers	33
Setting expectations and monitoring.....	33
Suspension and revocation of driver licences.....	33
Annex – Assessment of Previous Convictions	35
Annex – Disclosure and Barring Service information	37
Annex – CCTV Guidance	38
Annex - Staying Safe: Guidance for Passengers	40

1. Introduction

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

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

Terminology

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

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

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

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

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

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

3. Administering the Licensing Regime

Licensing policies

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

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

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

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

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

Duration of licences

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

Whistleblowing

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

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

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

Consultation at the local level

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

Changing licensing policy and requirements

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

4. Gathering and Sharing Information

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

The Disclosure and Barring Service

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

The Disclosure and Barring Service Update Service

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

Common Law Police Disclosure

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

Licensee self-reporting

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

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

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

Referrals to the Disclosure and Barring Service and the Police

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

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

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

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

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

Working with the Police

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

Sharing licensing information with other licensing authorities

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

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

Multi-agency Safeguarding Hub (MASH)

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

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

Complaints against licensees

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

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

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

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

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

Overseas convictions

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

5. Decision Making

Administration of the licensing framework

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

Training decision makers

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

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

The regulatory structure

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

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

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

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

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

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

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

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

Fit and proper test

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

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

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

Criminal convictions and rehabilitation

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

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

6. Driver Licensing

Criminality checks for drivers

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

Safeguarding awareness

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

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

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

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

‘County lines’ exploitation

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

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

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

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

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

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

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

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

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

Language proficiency

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

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

7. Vehicle Licensing

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

Criminality checks for vehicle proprietors

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

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

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

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

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

In-vehicle visual and audio recording – CCTV

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

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

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

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

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

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

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

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

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

Stretched Limousines

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

8. Private Hire Vehicle Operator Licensing

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

Criminality checks for private hire vehicle operators

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

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

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

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

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

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

Booking and dispatch staff

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

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

Record keeping

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

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

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

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

Use of passenger carrying vehicles (PCV) licensed drivers

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

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

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

9. Enforcing the Licensing Regime

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

Joint authorisation of enforcement officers

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

Setting expectations and monitoring

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

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

Suspension and revocation of driver licences

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

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

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

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

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

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

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

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

Annex – Assessment of Previous Convictions

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

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

Crimes resulting in death

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

Exploitation

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

Offences involving violence against the person

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

Possession of a weapon

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

Sexual offences

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

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

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

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

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

Motoring convictions

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

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

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

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

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

Annex – CCTV Guidance

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

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

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

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

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

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

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

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

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

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

Annex - Staying Safe: Guidance for Passengers

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

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

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

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

When using a private hire vehicle, passengers should always:

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

When using a taxi, passengers should where possible:

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



**HACKNEY CARRIAGE AND PRIVATE HIRE
LICENSING POLICY**

Commencing **TBA**

Contents

	Page No.
1. Introduction	1
2. Application and Definitions	2
3. Licensing Aims and Objectives	5
4. Delegations	7
5. Hackney Carriage and Private Hire Driver Requirements	8
5.1 Introduction	8
5.2 Application Process	8
5.3 Fit and Proper Person Test	9
5.4 Disclosure and Barring Service & DVLA Driver Licence Checks	9
5.5 Relevant Warnings, Offences, Cautions & Convictions Policy	11
5.6 Knowledge Test	11
5.7 Medical Assessment	12
5.8 Duration of the Licence	13
5.9 Safeguarding Vulnerable Passengers Training	13
5.10 Conditions	13
5.11 Dress Code	14
5.12 Right of the driver to work in the UK	14
5.13 Drivers' Responsibility	15
6. Hackney Carriage and Private Hire Vehicles	17
6.1 Application process	17
6.2 Grant and renewal of licences	18
6.3 Age & Specification of vehicles	19
6.4 Insurance	24
6.5 Conditions	24
6.6 Identification of Hackney Carriage & Private Hire Vehicles	24
6.7 Tyres	25
6.8 Accidents	26
6.9 Vehicle Examination and Testing Requirements	26
6.10 Meters	27
6.11 Advertisements on Vehicles	27
6.12 Wheelchair accessibility	27
6.13 Taxi Ranks	28
7. Fares	29
7.1 Hackney Carriages	29
7.2 Private Hire Vehicles	29
8. Private Hire Operators	30
8.1 Introduction	30
8.2 Application process	30
8.3 Fitness and propriety of applicants	32
8.4 Convictions	33
8.5 Licences	33
8.6 Safeguarding Vulnerable Passengers Training	34

8.7	Conditions	34
8.8	Right to Work in the UK	34
8.9	Operators' Responsibilities	34
8.10	Planning	35
8.11	Insurance	35
8.12	Trading names	35
8.13	Door signs and advertising	36
8.14	Complaints / Records	37
8.15	Exemption from displaying licence plate & livery	37
9.	Fees & Charges	38
10.	Communication and Information Security	39
11.	Compliance and enforcement	40
11.1	Enforcement (including Hearings)	40
11.2	Suspension/Revocation of a Licence	42
11.3	Refusal to renew a licence	42
11.4	Prosecution of licence holders	42
11.5	Appeals	42
11.6	Service Requests and Complaints	42
Appendices:		
Drivers:		
Appendix A	Hackney Carriage & Private Hire Driver: Application Procedure	45
Appendix B	Disclosure and Barring Service (DBS): Procedure and Declaration	47
Appendix C	Certificate of Good Conduct: Guidelines relating to Criminal Checks for Persons who have spent time outside the U.K.	49
Appendix D	Warnings, Offences, Cautions & Convictions Policy	51
Appendix E	Hackney Carriage and Private Hire (Dual) Driver Licence: Conditions attached to Licence	69
Vehicles:		
Appendix F	Hackney Carriage & Private Hire Vehicle: Application Procedure	77
Appendix G	Hackney Carriages & Private Hire Vehicles: Conditions of Licence	78
Appendix H	Supplementary Vehicle Testing Manual	85
Operators:		
Appendix I	Private Hire Operator: Application Procedure	107
Appendix J	Private Hire Operator: Conditions attached to Licence	109

DRAFT

1. Introduction

Ashfield District Council (“The Licensing Authority”) is responsible for the regulation of the Hackney Carriage and Private Hire trades within the District of Ashfield.

Ashfield District Council recognises the important role of Hackney Carriages and Private Hire vehicles in enabling people to travel around the District and portraying a positive image of Ashfield.

The Licensing Authority recognises all its drivers/operators as Ambassadors for the District and with this there is an expectation to provide a positive customer experience by transporting customers safely on every journey.

This policy and related procedures detail how the Licensing Authority carries out its functions. The policy has been developed by Ashfield District Council in consultation with other Statutory Agencies, the Public and the Licensing Trade. The following have also been taken into consideration:

- The Council’s licensing objectives;
- Legislation;
- The Office of Fair Trading “The Regulation of Licensed Taxi and PHV Services in the UK” 2003;
- Taxi and PHV Licensing Criminal Conviction’ Policy, LGA;
- Guidance on the Rehabilitation of Offenders Act 1974 – March 2014;
- Disclosure & Barring Service Information Note on Rehabilitation of Offenders Act 1974 and Police Act 1997 Orders – 2013;
- Regulators’ Code 2014;
- The Department for Transport “Statutory Taxi & Private Hire Standards” July 2020.

This document sets out the requirements and standards that must be met.

It should be noted however, that nothing in this document will bind the Licensing Authority to a particular course of action, and it will continue to consider each application on its own merits.

Similarly, this policy does not take precedence over any statutory provision or established case law.

The Council has developed Application Packs that provide full details as to the application procedures, fees & charges, standards & criteria, and the rules & regulations pertaining to Drivers, Vehicles and Operators as well as general guidance for the Trade; which can be found on the Council website at: www.ashfield.gov.uk/taxilicensing

For Driver Applications & Advice visit: www.ashfield.gov.uk/drivers

For Vehicle Applications & Advice visit: www.ashfield.gov.uk/vehicles

For Operator Applications & Advice visit: www.ashfield.gov.uk/operators

2. Application and Definitions

2.1 Application

The Local Government (Miscellaneous Provisions) Act 1976, as amended, (“the 1976 Act”) places a duty on the Licensing Authority to carry out its licensing functions in respect of Hackney Carriages and Private Hire vehicles. The Licensing Authority is Ashfield District Council.

This policy applies to:

- Hackney Carriages; being a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means that it may stand at ranks or be hailed in the street by members of the public within the District of Ashfield.
- Private Hire Vehicles: licensed as a vehicle to carry no more than 8 passengers, but must be booked in advance by customers through an operator and may not ply for hire in the street.
- Private Hire Operators
- Hackney Carriage & Private Hire Drivers

In undertaking its licensing function, the Licensing Authority will have particular regard to:

- Town Police Clauses Act 1847 and 1889
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Acts 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Equality Act 2010
- Road Traffic Acts
- Health Act 2006
- Human Rights Act 1998
- The Department for Transport “Statutory Taxi & Private Hire Standards” July 2020

The Licensing Authority will also have regard to any principles laid out in statutory guidance and recommendations from bodies such as the Better Regulation Delivery Office and the Department for Transport.

2.2 Definitions

a. In this policy:

- **“the Council”** or **“Licensing Authority”** means Ashfield District Council (ADC);

- **“Driver”** means any dual licensed Hackney Carriage & Private Hire Driver issued by this Licensing Authority.
- **“the Operator”** means the holder(s) of the Private Hire Operator licence issued by this Licensing Authority;
- **“Vehicle”** means any licensed private hire vehicle (and hackney carriages, if bookings are also invited and accepted for fulfilment by these vehicles) operated by the Operator.

b. Terms defined under section 80 of the 1976 Act shall bear the meanings set out therein, as indicated below:

“The Act of 1847” means the provisions of the Town Police Clauses Act 1847 with respect to hackney carriages;

“The Act of 1936” means the Public Health Act 1936;

“Authorised Officer” means any officer of a district council authorised in writing by the council for the purposes of this Part of this Act;

“Contravene” includes fail to comply;

“Controlled District” means any area for which this Part of this Act is in force by virtue of a resolution passed by a district council under section 45 of this Act; or section 255(4) of the Greater London Authority Act 1999;

“Daily Fine” means a fine for each day during which an offence continues after conviction thereof;

“The District”, in relation to a district council in whose area the provisions of this Part of this Act are in force, means if those provisions are in force throughout the area of the council, that area; and if those provisions are in force for part only of the area of the council, that part of that area;

“Driver Badge” means, in relation to the driver of a hackney carriage, any **identity** badge issued by a district council under byelaws made under section 68 of the Act of 1847 and, in relation to the driver of a private hire vehicle, any badge issued by a district council under section 54 of this Act;

“Driver Licence” means, in relation to the driver of a hackney carriage, a licence under section 46 of the Act of 1847 and, in relation to the driver of a private hire vehicle, a licence under section 51 of this Act;

“Hackney Carriage” has the same meaning as in the Act of 1847;

“Hackney Carriage Byelaws” means the byelaws for the time being in force in the controlled district in question relating to hackney carriages;

“Operate” means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle;

“Operator Licence” means a licence under section 55 of this Act;

“Private Hire Vehicle” means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers;

“Proprietor” includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the vehicle under that agreement;

“Public Service Vehicle” has the same meaning as in the Public Passenger Vehicles Act 1981;

“Taximeter” means any device for calculating the fare to be charged in respect of any journey in a hackney carriage or private hire vehicle by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both; and

“Vehicle Licence” means in relation to a hackney carriage a licence under sections 37 to 45 of the Act of 1847 [in relation to a London cab a licence under section 6 of the Metropolitan Public Carriage Act 1869] and in relation to a private hire vehicle means a licence under section 48 of this Act.

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3. Licensing Aims and Objectives

The principal purpose of Hackney Carriage and Private Hire Licensing is to protect the public and promote public safety.

The Licensing Authority will carry out its Hackney Carriage and Private Hire Licensing functions with a view to promoting the following:

A. The protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder by:

- Raising awareness amongst the licensed trade, and the general public, of issues of safeguarding children and vulnerable adults.
- Operating rules, conditions and disciplinary processes.
- Vetting, qualification, training and monitoring licensees.
- Commitment to work with the police and licensing authorities.
- An expectation that licence holders will treat all customers, passengers, the general public and Council officers with respect and courtesy at all times.

B. The safety and health of the public and drivers by:

- Consideration of history of convictions and cautions.
- Driver training, qualification and performance.
- Knowledge of the Ashfield area.
- Health and fitness to fulfil the role of a licensed driver.
- Vehicle specifications.
- Regular driver medical checks
- Commitment to work, and co-operation, with the police and licensing authorities

C. Vehicle safety, comfort and access by:

- Standards of vehicle comfort and appearance.
- Space standards for vehicles.
- Location of ranks and use of ranks
- Provision of disabled facilities.

D. Encouraging environmental sustainability by:

- Working with stakeholders in the trade in finding methods of reducing vehicle emissions and not issuing licences for vehicles that are unable to comply with European Emissions Standards.

In promoting these licensing aims and objectives, the Licensing Authority will expect to see all licence holders and applicants continuously demonstrate that they meet or exceed the standards set.

These aims and objectives will also be taken into account by the Licensing Authority when making decisions on applications/enforcement action.

The Licensing Authority will work in partnership with its licence holders, neighbouring authorities, the Police, local businesses and local people to ensure promotion of the above-listed aims and objectives.

It should be noted that it is a criminal offence under the 1976 Act for any person to knowingly or recklessly make a false statement or omit any material particular in connection with an application for a driver, vehicle or operator's licence.

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4. Delegations

The Council's constitution details who is responsible for making decisions on matters relating to Hackney Carriage and Private Hire licensing.

The Council operates a scheme of delegation where certain powers are delegated to Authorised Officers and Elected Members who sit on the Licensing Committee. A copy of the constitution which contains the scheme of delegation is available on the Council's website or upon request.

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5. Hackney Carriage & Private Hire (Dual) Driver Licensing Requirements

5.1 Introduction

All drivers must satisfy the Licensing Authority that they are 'fit and proper' to hold a drivers licence. Once granted, they must remain a 'fit and proper' person for the duration of that licence.

The fitness and propriety of a driver will be monitored / assessed, throughout the period that the licence is held, by the Licensing Authority and Partner Agencies.

All applicants/Licensees are expected to act with honesty and integrity throughout the application process, and must therefore fully and accurately disclose any information that is requested. This includes information regarding previous cautions, convictions, warnings and reprimands, current investigations and pending criminal proceedings.

The application and compliance procedures are designed to ensure high standards are maintained, monitored and non-compliance is appropriately enforced.

The sections (5.1-5.13) below apply to all Hackney Carriage and Private Hire Drivers licensed by this Licensing Authority i.e. Ashfield District Council.

5.2 Application process

The Licensing Authority issues licences that enable the driving of both Hackney Carriages and Private Hire Vehicles. We refer to it as a "Dual" licence.

A valid application consists of the applicant meeting all of the following requirements:

- The submission of a completed application form (including all relevant declarations)
- The provision of 2 recent colour passport standard photographs that are of a good likeness of the applicant
- The submission of a DVLA driving photo-card (where applicable)
- A completed DVLA mandate (or permission to access the applicants DBS Update Service record);
- A completed Enhanced DBS disclosure (unless **Appendix B** is applicable)
- A Certificate of Good Conduct (if applicable – see **Appendix C**)
- Proof that the applicant is legally permitted to work in the UK –a licence will not be issued for a period longer than that period the applicant is permitted to work.
- A Group II Medical Certificate or proof of exemption (if applicable).
- Complete & Pass the Safeguarding Vulnerable Passengers Test.
- Complete & Pass the Licensing Authority Knowledge Test.
- Payment of the application fee (non-refundable)
- The provision of any other documentation as required by the Licensing Authority to assist the processing of your application.

The Driver Application Pack can be found online at: www.ashfield.gov.uk/drivers

If any issues arise during the processing of the application, in the first instance the applicant will be given an opportunity to provide clarification, or if appropriate to amend the application form.

When all required documents and other information have been received, the application will be determined.

Detailed information can be found in **Appendix A**.

5.3 Fit & Proper Person Test

Licensed drivers are in a position of trust, and therefore must remain fit and proper to hold a licence. This requirement to be 'fit and proper' is contained within Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II).

In order to assess the suitability of an applicant the Licensing Authority will undertake any checks and apply whatever processes it considers necessary to determine whether an applicant is 'fit and proper' to hold a licence and ensure that licences are not issued to, or used by, unsuitable people.

In assessing the suitability of an applicant or licence holder, the Licensing Authority will consider the following factors:

- Criminality including cautions
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work
- Medical fitness
- Standard of driving / driving ability
- General conduct / standards of behaviour (including online behaviour)
- The conduct of the applicant in making the application (e.g. whether they have acted with honesty and integrity during the application process).
- The previous licensing history of existing / former licence holders (including honesty and integrity).
- Theoretical knowledge of issues and matters related to the work of a licensed driver.

In addition, the Licensing Authority may need to verify information or obtain further information from other sources such as the Police, other local authorities, statutory & non-statutory agencies and Boards such as the Children and Adult Safeguarding Boards. An applicant will be required to provide consent at the application stage.

5.4 Disclosure and Barring Service (DBS) and DVLA Driver Licence Checks

A criminal record check on a driver is necessary and deemed an important safety measure. Applicants will be required to provide an Enhanced Disclosure through the Disclosure and Barring Service (DBS).

This DBS will provide details of live/spent convictions, police cautions and other relevant information that will be considered when determining the application.

Detailed information about the DBS application procedures can be found in **Appendix B**.

Hackney Carriage & Private Hire Drivers are deemed as “exceptions” under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (the “Exceptions Order”).

All applicants/licensees will be required to disclose all cautions and/or convictions on their application forms even if they are spent for other purposes as well as any fixed penalty notices and warnings. The applicant will be responsible for funding, obtaining and providing the Licensing Authority with a copy of the DBS certificate.

Certificates should be obtained using the Licensing Authorities approved DBS system. However, DBS certificates issued to other local authorities may be accepted if:

1. It is an Enhanced DBS Disclosure Certificate and has been processed in relation to the child and adult workforce employment position; and
2. It has been issued within the last three months.

All licence holders shall notify the Licensing Authority of any convictions, cautions, or fixed penalty notices received during their licence period. Failure to inform the Licensing Authority of these during the licensing period may result in suspension, revocation and/or any other course of action deemed appropriate by the Licensing Authority.

A licence will not be granted or renewed in the absence of a current Enhanced DBS Disclosure Certificate.

The Licensing Authority requires all drivers to fund, obtain and produce an enhanced DBS check **every six months** and the details contained within this will be retained by the Licensing Authority. Licence holders **are required** to subscribe to the Disclosure and Barring Service Online Update. The Update Service can be used if an application is made for a renewal **or six-monthly background check** and there has been no changes. If no changes are recorded on the DBS certificate then a full DBS check will not be required. In all other cases a full Enhanced DBS check will be required before a licence will be renewed/issued.

The applicant/licence holder must provide consent for the Licensing Authority to undertake checks of their DBS status as and when it is deemed appropriate to do so and failure to do this may result in an application being refused.

It may be necessary for the Licensing Authority to access the Update Service to monitor licence holders to be satisfied that they continue to be fit and proper to hold a licence.

Applicants with periods of residency outside the UK

If an applicant has spent six continuous months or more overseas since the age of ten years old the Council will need to see evidence of a criminal record check from the country / countries visited covering the period that the applicant remained overseas.

The Licensing Authority will need to be satisfied that sufficient background checks have been conducted to satisfy the fit and proper test for all applicants that have lived overseas.

For EU nationals (including UK citizens) suitable checks should be available where the applicant has not been resident in the UK for at least 5 consecutive years.

For those countries for which checks are not available, the Council will require a certificate of good conduct authenticated by the relevant embassy where the applicant has not been resident in the UK for at least 5 consecutive years.

If the relevant checks cannot be supplied the Licensing Authority will not be able to grant a drivers licence.

For further information please see **Appendix C**.

DVLA Driving Licence Check

All applicants for and holders of a Hackney Carriage & Private Hire (Dual) Driver licence will be required to have a **six-monthly** check of their DVLA Driver licence record.

A signed mandate will be required as part of the application process.

Any offences disclosed will be dealt with in accordance with the Council's "Relevant Convictions Policy".

5.5 Relevant Warnings, Offences, Cautions & Convictions Policy

The Licensing Authority is committed to ensuring that the licensed trade are fit and proper and in order to do so periodic checks/audits of licensed drivers will be undertaken to ensure that policies and procedures are being complied with.

The Licensing Authority will take account of all convictions, cautions, reprimands, warnings etc. whether they are spent or unspent in accordance with its policy (in line with the Department for Transport "Taxi & Private Hire Standards" July 2020 - see **Appendix D**).

5.6 Knowledge Test

Knowledge Test

Applicants will be required to pass their knowledge test and produce photographic evidence before the test can be commenced. The knowledge test must be passed and is designed to ensure applicants have sufficient knowledge in relation to the rules, regulations, and conditions of licence; and to evaluate literacy and numeracy skills.

As part of this process, applicants will be required to demonstrate that they possess English literacy skills of a standard that would be reasonably expected of a person undertaking a role as a hackney carriage or private hire driver.

The initial application fee will only include the initial test and is non-refundable upon failure. All re-tests will be charged in accordance with the fees set by the Council and are non-refundable in the event of failure.

No refund will be provided for any cancellations with less than 24 hours' notice in writing.

5.7 Medical Assessment

Licensed drivers are expected to meet the Group II Standards of Medical Fitness as applied by the DVLA to licensed lorry/bus drivers.

The Licensing Authority requires applicants and current licensees to undergo medicals through a GP or third party provider as approved by the Licensing Authority in writing.

The applicant will be responsible for arranging, attending and funding the medical appointment, as well as providing a copy of the medical certificate to the Licensing Authority.

Where there remains any doubt about the fitness of an applicant, the Licensing Authority may revert back to the medical practitioner for further information. The application will then be determined on the medical evidence available.

A licence application will not be accepted / processed unless all elements of the application process have been completed.

No licence shall be issued until medical fitness has been established.

Licence holders must advise the Licensing Authority of any deterioration or other change in their health that may affect their driving capabilities as soon as is practicably possible. Failure to do so could result in suspension, revocation and/or another course of action deemed appropriate by the Licensing Authority.

Exception:

1. Where an applicant is able to produce proof of a current Group II medical examination i.e. less than 3 months old, along with confirmation from a medical practitioner that there have been no changes since its issue, they shall not be required to undergo a further medical examination at the time of submitting their application.

If the applicant is not required to undertake a full Group II medical on renewal they will be required to complete and submit a self-medical certificate with their renewal application. The Licensing Authority reserves the right to request a further Group II medical where it is deemed appropriate. The applicant will be required to finance this.

The Licensing Authority also reserves the right to request a driver/applicant to produce a medical certificate upon request at any point during the period of the licence. The driver may be required to cover the cost of this. Failure to comply with such a request may result in immediate suspension, revocation and/or another course of action deemed appropriate by the Licensing Authority.

Exemption:

1. Licensed drivers are under a legal duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without an additional charge. Drivers who have a medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. If an application is successful they will be issued with an exemption certificate, and also be issued with a notice of exemption. The notice of exemption must be clearly displayed in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard. **Such an exemption (if granted) must be reapplied for when the licence is renewed.**

5.8 Duration of the Licence

The Licensing Authority will normally issue a Hackney Carriage and Private Hackney Carriage & Private Hire Drivers licence for a three-year period. The Licensing Authority does have the discretion to issue licences for a shorter period, if it considers this to be necessary in the circumstances.

5.9 Safeguarding Vulnerable Passengers Training

All new applicants will be required to attend and pass a Safeguarding Vulnerable Passengers training course prior to a licence being granted.

The training will involve attending a session at a location designated by the Licensing Authority. At the end of the session all applicants will be required to pass a test.

Failure to pass the test will result in the licensee re-taking the training session and exam at their own cost.

The initial test fee is included in the application fee and is non-refundable in the event of failure.

All re-tests will be charged in accordance with the fees set by the Council and are non-refundable in the event of failure.

5.10 Conditions

The Licensing Authority may attach such conditions to a Hackney Carriage & Private Hire (Dual) Driver licence as are considered necessary.

The standard conditions are available in **Appendix E**.

Failure to comply with the conditions set out in this document may result in enforcement action (see paragraph 10.)

5.11 Dress Code

Hackney Carriage and Private Hire Licensing in the District of Ashfield plays an important role in portraying a positive image of Ashfield.

All licensees are expected to conduct themselves in a manner that serves to enhance the professional image of the Hackney Carriage and Private Hire trade, and promote the concept that drivers of licensed vehicles are professional vocational drivers.

Employees working for companies operating their own dress codes will also be required to comply with this standard. The Licensing Authority requires all drivers to adhere to the following dress code:

- Drivers must ensure that at all times a smart standard of dress and cleanliness is maintained which is acceptable to the Licensing Authority and/or to the general public.
- The seasonal wearing of dress shorts or culottes as appropriate will be allowed and drivers must wear either a short sleeved shirt, blouse or collared polo shirt.
- Flip Flops and/or bare feet are not acceptable when on duty.

5.12 Right of the driver to work in the UK

The Licensing Authority requires all applicants to provide documentary evidence to confirm that they can legally work in the UK. For example:

- UK passport confirming that the holder is British Citizen (or citizen of another EEA country – including Switzerland),
- Passport or other travel document endorsed to show that the holder is allowed to stay in the United Kingdom and undertake paid employment,
- Full UK Birth / Adoption Certificate,
- An Immigration Document issued by the Border and Immigration Agency to the holder which indicates that the person named in it can stay in the United Kingdom and undertake paid employment,
- A work permit or other approval to take employment issued by the Home Office or the Border and Immigration Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to undertake paid employment.

This list is not exhaustive, and other documents may be accepted.

Where an applicant is subject to immigration controls, a licence will not be issued for longer than the period that the applicant has permission to undertake paid employment in the United Kingdom.

5.13 Drivers' Responsibility

The Licensing Authority requires all its drivers to ensure that passengers are safeguarded when being transported in a licensed vehicle. The following are applicable:

Drivers are expected:

- Ensure that they are fit to drive at all times;
- Ensure their vehicle is fit to be driven at all times;
- Not to use a vehicle which could put the public at risk;
- To remain professional at all times;
- To carry photographic I.D. at all times, and wear it in accordance with any conditions of the licence.
- Not to use offensive or inappropriate language;
- Not to swear;
- Not to behave in a manner that would make passengers feel uncomfortable, intimidated and/or threatened;
- Not to misuse personal information obtained during whilst working;
- Ensure a log is maintained which records all incidents, refusals and accidents involving passengers and/or reported to the Operator immediately and in any event before taking the next fare. (See also paragraph 6.8)

Vulnerable Passengers

Drivers and/or Operators must confirm that appropriate provisions are in place for any vulnerable passengers prior to accepting any bookings and/or commencing a journey. A Driver/Operator would not be responsible for any alterations, but is responsible for ensuring the passenger is able to be transported safely and comfortably.

If a responsible person is not accompanying a vulnerable passenger the Driver should make reasonable attempts to obtain contact details for a responsible person in case of an emergency.

If a Driver is unable to commence a journey due to safety concerns then all reasonable measures should be taken to ensure a responsible person is notified to enable alternative arrangements to be made.

Reporting Concerns

If a driver is concerned about the safety, welfare or behaviour of an individual, they should report it to the Police by telephoning 101 (or in emergencies by calling 999), and also to Crimestoppers, and the Nottinghamshire Multi-Agency Safeguarding Hub.

Vehicles

All licensed drivers and licensed proprietors are responsible for ensuring their vehicle is safe to carry members of the public and must refrain from driving it if there are any physical/mechanical concerns.

All concerns must be reported to the Private Hire Operator or the vehicle proprietor/owner as soon as practicably possible by the Driver. The Vehicle must not be used until the concerns have been rectified.

For further information please refer to Section 6 at page 21.

Driver Hours

There are no direct controls over the hours that Hackney Carriage and Private Hire drivers can work. There are, however, limits applicable to drivers and crews of heavy goods vehicles or public service vehicles.

The Licensing Authority deem that the number of hours worked by drivers can impact public safety and as a result seeks to promote the same limits, namely:

- An average of 48 hours per week calculated over a 17 week period normally;
- In any single week up to 60 hours providing the 48 hour limit is maintained;
- Night work is limited to 10 hours per night unless there is an agreement to work longer hours;
- Working between 6 and 9 hours per day requires breaks totalling 30 minutes. If more than 9 hours is worked then breaks must total 45 minutes. Breaks must be of at least 15 minutes in duration.

The Licensing Authority recommends that these requirements are used as a guideline to ensure drivers are fit to drive and that public safety remains paramount at all times.

6. Hackney Carriage and Private Hire Vehicles

6.1 Application process

The Licensing Authority will consider all applications for vehicle licences on their own merits. The conditions for dealing with applications for Hackney Carriage and Private Hire vehicles are set out in **Appendix F**.

Application Process:

The applicant should ensure that the vehicle complies with the Council's policies, details of which can be found at Appendices E and H.

1. A vehicle will only be licensed if it satisfies the requirements of the Ashfield District Council vehicle inspection checklist.
2. The inspection is arranged by the applicant/vehicle owner. The inspection fee must be paid before the vehicle can be inspected.
3. Renewal of a vehicle licence must be received by the Licensing Team before the expiry of the current licence.
4. Where the licence has expired the application will be treated as a new application and the terms and conditions relating to new vehicles etc. will apply.
5. Applicants should present the following when making an application:
 - The fee (this is paid in advance of you submitting your application, and will include the cost of 2 certificate of compliance tests per annum at the Council Test Depot)
 - Completed application form
 - Vehicle registration certificate/proof of purchase
 - MOT certificate (required for vehicles more than 12 months old)
 - Insurance certificate – Insurance must cover use of the vehicle for hire and reward either public or private
 - Compliance Inspection Test pass certificate from the Council's Depot (such a Certificate must be dated no more than 28 days old at the time that the application is made to the Licensing Authority)
 - Any previously issued plates by the Licensing Authority
 - A Basic DBS Disclosure or permission to access his / her DBS Update Service record (if the applicant is not the holder of a Hackney Carriage & Private Hire Dual Driver Licence and / or Private Hire Operator Licence issued by Ashfield District Council).
6. Where vehicles do not comply with the Council's conditions, e.g. applications for the licensing of a vehicle **outside of the permitted age limits and** standards, additional information and checks relative to the application may be requested.

General Information:

1. Vehicles may be licensed as Hackney Carriages or Private Hire Vehicles provided that the vehicles comply with the requirements contained in this guidance.
2. An Ashfield Private Hire Vehicle licence will not be issued to a vehicle which looks like a hackney carriage in any way.
3. An Ashfield licensed vehicle may only be driven by an Ashfield licensed Hackney Carriage & Private Hire Driver. This applies to all vehicles including private use of the vehicle (e.g. shopping etc.)
4. An MOT certificate is required for all licensed vehicles acting as Hackney Carriages or Private Hire vehicles where the vehicle is over 12 months old, unless you have been granted an exemption by DVLA to not require an MOT certificate because the vehicle has passed our Certificate of Compliance Test.
5. Attention should be given to the vehicle specification, age restrictions and the supplementary testing manual before purchasing a vehicle.
6. In order to operate an Ashfield Private Hire Vehicle you must hold a Private Hire Operator Licence, or work through an Ashfield licensed Operator.
7. A wheelchair accessible Hackney Carriage when working on any taxi rank must be able at all times to carry wheelchair users and be wheelchair accessible. All fastenings, ramps and equipment must be carried to accommodate wheelchair passengers and be configured with the agreed seating layout to accommodate wheelchair users.
8. A Hackney Carriage or Private Hire vehicle licensed with Ashfield District Council (save for a temporary vehicle being used following a permanent vehicle being taken off the road with the written consent of Ashfield District Council) cannot be licensed with any other Council. Should the owner or operator wish to licence the vehicle with another Council the Ashfield licence must be surrendered and the licence plate returned to Ashfield District Council.

For further information you can contact the Licensing Team on 01623 457589 or refer to the Hackney Carriage & Private Hire Vehicle Licence Application Pack which can be obtained from the Council Offices, or online at the Council website: www.ashfield.gov.uk/vehicles.

6.2 Grant and renewal of licences

The vehicle must be submitted for a Compliance Inspection test at the appointed test station. It is the applicant's responsibility to ensure that the vehicle is tested prior to the submission of the application.

For a renewal application the application form, supplementary paperwork and fee must be submitted to the Licensing Authority before the date of the expiry of the licence.

If either the application form and corresponding paperwork or the vehicle test (in which the vehicle passes) is not completed prior to the expiry date, the vehicle licence have lapsed and will not be able to be renewed.

Applicants will have a right of appeal if a vehicle licence is not renewed, however, there must be evidence of the exceptional circumstances.

Once the vehicle licence has been issued, only licensed drivers will be permitted to drive the vehicle.

6.3 Age & Specification of Vehicles

Licensed vehicles must comply with the following and also the Council's supplementary testing manual. Details of the supplementary testing manual are set out in **Appendix H**.

HACKNEY CARRIAGE VEHICLES

1. New Hackney Carriage Licences will only be issued for wheelchair accessible vehicles.
2. All new Hackney Carriages must be less than **five** years old from date of first registration on initial application.
3. The following upper age limits apply:
 - No vehicle licence will be **renewed** on any vehicle that is of 12 years of age or more.
 - Replacement vehicles shall meet with the requirements of a New Hackney Carriage Vehicle Licence, however the following criteria are applicable:
 - Existing Hackney Carriages that are **not** wheelchair accessible, when replaced, may be replaced with a non-wheelchair accessible vehicle (e.g. saloon) but must be less than **five** years old from date of first registration on initial application.
 - Existing Hackney Carriages that are wheelchair accessible, when replaced, must be replaced with a vehicle meeting the requirements of a New Hackney Carriage Vehicle Licence.
4. All new or replacement vehicles to have M1 whole type approval except in exceptional circumstances. Those vehicles without M1 whole type approval will be considered individually.
5. Licence applications for vehicles in “exceptional condition” which are outside of the Council’s policy, for example by age and type of vehicle, will be subject to additional checks relevant to the type of vehicle. Applicants must provide an independent automobile engineer’s report for vehicles outside of the Council’s age restrictions. This report is in addition to the Council’s mechanical inspection. An additional fee will be charged for vehicles outside of the Council’s policies to cover additional administration (See Schedule of Fees).

6. A Hackney Carriage vehicle licence will not be granted in respect of a minibus (as detailed on the V5 Log Book) under any circumstances. Applications for other types of vehicle constructed or adapted to carry up to 8 passengers plus the driver will be considered on merit. (Public Carriage Office approved London style cabs will be acceptable).
7. Date of first registration shall mean the date of first registration in the UK, or the date of manufacture in the case of vehicles first registered outside the UK.

PRIVATE HIRE VEHICLES

1. All new Private Hire Vehicles must be less than **five** years old from date of first registration on initial application on initial application.
2. The following upper age limits apply:
 - No vehicle licence will be **renewed** on any vehicle that is of 12 years of age or more.
 - Replacement vehicles shall meet with the requirements of a New Private Hire Vehicle Licence, however the following criteria are applicable:
 - Existing Private Hire Vehicles that are **not** wheelchair accessible, when replaced, may be replaced with a non-wheelchair accessible vehicle (e.g. saloon) but must be less than **five** years old from date of first registration on initial application.
 - Existing Private Hire Vehicles that are wheelchair accessible, when replaced, must be replaced with a vehicle meeting the requirements of a New Private Hire Vehicle Licence.
3. All new or replacement vehicles to have M1 whole type approval except in exceptional circumstances. Those vehicles without M1 whole type approval will be considered individually.
4. Licence applications for vehicles in exceptional condition which are outside of the Council's policy, for example by age and type of vehicle, will be subject to additional checks relevant to the type of vehicle. Applicants must provide an independent automobile engineer's report for vehicles outside of the Council's age restrictions. This report is in addition to the Council's mechanical inspection. An additional fee will be charged for vehicles outside of the Council's policies to cover additional administration (See Schedule of Fees).
5. Date of first registration shall mean the date of first registration in the UK, or the date of manufacture in the case of vehicles first registered outside the UK.

Specification for both Hackney Carriage and Private Hire Vehicles

Each case will be assessed on its own merits. Applications for vehicles which fall outside the Council's policy, for example by age and type of vehicle, may be dealt by way of an exceptional condition.

1. The vehicle must comply with the Council's current age policy.
2. The vehicle must comply in all respects with the requirements of:
 - the Motor Vehicle (Type Approval) Regulations 1980
 - the Motor Vehicle (Type Approval) Regulations (Great Britain) 1984
 - the Road Vehicles (Construction and Use) Regulations 1986 (C and U).
 - British and European Vehicle Regulations
 - "type approved" to the requirements of the M or M1 category of European Whole Type Approval 70/156/EEC as amended.

Evidence must be produced to prove that the vehicle complies with M or M1 categories. Conversions which have not been "type approved" to M or M1 categories must be presented with approved certification that the specific vehicle meets the requirements of one of those (i.e. M or M1) categories.

3. All vehicles must be right hand drive.
4. The minimum engine capacity for the vehicle must be:
 - Petrol 1400cc
 - Diesel 1400cc
 - Dual fuel vehicles (Electric/Petrol or Electric/Diesel or Gas/Diesel, Gas/Petrol), Hybrid and Electric Vehicles will be considered on an individual basis on application
 - Engines less than 1400cc will be considered provided that they are at least 95bhp or 125ps or greater.
5. The vehicle must have four passenger doors which includes the driver's door, except purpose built vehicles.
6. Seating: (also see page 16)
 - seating should be for not more than eight passengers [in addition to the driver];
 - seating should be properly cushioned or covered;
 - rearward facing seats over or rearward of the rear wheels and axles having normal access only through a rear door will not be permitted;
 - folding or moving seats which are so constructed to provide access to other seats to which there is no direct access will not be permitted;
 - sideways mounted seats will not be permitted.
7. The vehicle must have at least one window on each side capable of being opened and closed.

8. The floor must be covered with a suitable carpet, mat or other floor covering.
9. The vehicle must have at least two doors for the use of passengers other than the drivers' door without the need to fold down or fold away other seats in order to gain access into or from the vehicle. An effective means must be provided whereby passengers being conveyed in the vehicle may open each door.
10. Manufacturers gross vehicle weight for the tyres and suspension actually fitted to the vehicle must be sufficient for a minimum payload equal to a full fuel tank, the driver and the number of passengers for which a licence is requested (at 70 kg per person) and luggage (at 20 kg per passenger); and where propane or Liquid Petroleum Gas is used as the vehicle fuel, the weight of extra equipment must be within the gross weight limit.
11. Wheels and Tyres:
 - Vehicles must have four road wheels fitted with manufacturers recommended size tyres.
 - A spare tyre of the same type as fitted to the road wheels, or a manufacturers space saver (emergency tyre inflation kits WILL NOT be accepted, unless supplied by the vehicle manufacturer when first registered).
 - The tread pattern shall be a minimum of 2mm in depth throughout the complete circumference and breadth of the tyre.
 - Jacking equipment and a wheel brace, as issued by the manufacturer or similar, must be provided. Trolley jacks are **not** acceptable.
12. A permanent roof which is watertight.
13. A separate locking luggage area (i.e. boot), or in the case, of an Estate or People carrier a protection grille or shelf must be fitted sufficient to prevent luggage being carried from coming into contact with persons travelling in the vehicle.
14. Seat belts must be fitted for all seats.
15. Nearside and offside exterior rear view mirrors.
16. Hackney Carriages must have an appropriate taxi sign bearing the word "TAXI" on the front and Ashfield District Council on the rear, unless a sign is manufactured into the body work of the vehicle, in which case Ashfield District Council must be displayed on the rear of the vehicle.
17. Hackney Carriages must have an appropriate taxi meter, positioned where it can clearly be seen by the passengers in the vehicle.
18. Hackney Carriages must also have sufficient means by which a passenger can communicate with the driver, and vice versa.
19. Where the vehicle is more than 1 year old an M.O.T certificate must be produced each year on renewal of licence.

20. The fittings and furniture shall be kept in a clean and well maintained condition fit for public service at all times.
21. Vehicles shall have a clean and smart appearance both externally and internally.

Additional Information for Wheelchair Accessible Vehicles

When assessing whether or not a vehicle is wheelchair accessible the Council will have reference to the informal consultation document entitled "The Government's proposals for Taxis" for guidance.

1. The vehicle must comply in all respects with the requirements of:
 - the Motor Vehicle (Type Approval) Regulations 1980
 - the Motor Vehicle (Type Approval) Regulations (Great Britain) 1984
 - the Road Vehicles (Construction and Use) Regulations 1986 (C and U).
 - British and European Vehicle Regulations
 - "type approved" to the requirements of the M or M1 category of European Whole Type Approval 70/156/EEC as amended.

Evidence must be produced to prove that the vehicle complied with M or M1 categories. Conversions which have not been "type approved" to M or M1 categories must be presented with approved certification that the specific vehicle meets the requirements of one of those (i.e. M or M1) categories.

2. Vehicles offered for approval must be so constructed as to facilitate the carriage of disabled persons and be capable of accommodating a disabled person in a wheelchair in the passenger compartment.
3. New or replacement vehicles may be either side or rear loading.
4. No fittings, other than those approved, may be attached to or carried on the inside or outside of the vehicle.
5. Tyres and equipment
 - All tyres of purpose built vehicles must comply with the requirements of C & U Regulation
 - Jacking equipment and a wheel brace, as issued by the manufacturer or similar, must be provided. Trolley jacks are **not** acceptable.
 - A spare tyre or factory fitted space saver must be carried, emergency tyre inflation kits are not acceptable unless supplied by the vehicle manufacturer when first registered.
6. All licensed Hackney Carriages that are Wheelchair Accessible Vehicles, when operating from a taxi rank or plying for hire **MUST** at all times be capable of carrying a passenger seated in a wheelchair, they must carry all ramps and seat harnesses and comply to the agreed seating layout (if appropriate) for that vehicle.

7. All licensed Hackney Carriages or Private Hire vehicles that are wheelchair accessible vehicles must display a printed notice supplied by the Council, on the inside of the windscreen at the bottom nearside corner, adjacent to the tax disc and clearly readable from outside of the vehicle, identifying the vehicle as being a Wheelchair Accessible Vehicle.
8. When a Wheelchair Accessible vehicle is booked in to the Council Transport Depot for its annual inspection or six month inspection, at the time of booking the vehicle in, the workshop must be informed that the vehicle is a wheelchair accessible vehicle.

6.4 Insurance

All insurance documents must be produced before a licence can be issued by the Licensing Authority, namely:

- A valid certificate of insurance or cover note confirming that insurance is in place for each driver of the vehicle and specifying use as either a Hackney Carriage or Private Hire Vehicle.

The Licensing Authority will undertake periodic audits of licensed vehicles to ensure that the vehicle is insured.

For a Hackney Carriage Vehicle the certificate of insurance must cover 'public hire'

For a Private Hire Vehicle the certificate of insurance must cover for 'private hire/hire or reward'.

6.5 Conditions

The Council is empowered to impose such conditions as it considers reasonably necessary in relation to the granting of Hackney Carriage or Private Hire Vehicle licences. The standard conditions are attached at **Appendix G** for Hackney Carriage and Private Hire Vehicles.

6.6 Identification of vehicles as Hackney Carriage and Private Hire Vehicles

The Licensing Authority requires it to be clear to the public that a Hackney Carriage and Private Hire vehicle is licensed. Consequently, the Licensing Authority requires vehicles to be clearly identifiable and as such the following will apply.

- a) Hackney Carriage Vehicles:
 - It must have an illuminated sign on the roof bearing the word **TAXI** on the front and Ashfield District Council on the rear; and
 - Must display their Licence Plate on the rear of the vehicle.
- b) Private Hire Vehicles:
 - By law a private hire vehicle cannot have the appearance of a Hackney Carriage and:
 - must not have a top sign/light; and

- must display signs on the front doors of the vehicle identifying the private hire firm giving the name and contact number; and
- must display a sign indicating 'advanced bookings only'.

c) Signage

There are signage requirements that must be complied with for Hackney Carriage and Private Hire Vehicles – please refer to part 6 of **Appendix G**. It includes:

- the permitted position of licence plates & top signs
- positioning of permanent door signs for vehicles
- required wording for door signs on vehicles
- requirements for the display of notices in vehicles
- other notices/markings that the Council will require licensed vehicles to display
- advertising restrictions

6.7 Tyres

Tyres are the vehicle's only point of contact with the road and as a result it is a requirement for them to be in a roadworthy condition. The following are applicable:

1. All tyres fitted to the vehicle must have at least 2.0 mm tread depth throughout complete circumference and breadth of the tyre.
2. Tyres fitted to the vehicle must be free from any defects which might damage the road or endanger any person and must be fit for purpose, including:
 - be compatible with the types of tyres fitted to the other wheels,
 - not have any lump, bulge or tear caused by separation or partial failure of the structure,
 - not have a cut or tear in excess of 25mm or 10% of the sectional width of the tyre, whichever is the greater, and which is deep enough to reach the ply or cord,
 - not have any part of the ply or cord exposed.
 - must be correctly inflated to the vehicle / tyre manufacturer's recommended pressure.
3. All replacement tyres fitted to licensed vehicles must be new (i.e. not have been used previously on any other vehicle) and have been fitted by a reputable vehicle maintenance company / contractor. Vehicle proprietors are required to retain invoices / receipts to show that any tyre that is purchased meets this requirement and the vehicle registration should be noted on the receipt.
4. The fitting of part worn tyres to licensed vehicles is not permitted.
5. 'Space saving' spare wheels must only be used in an emergency, and then only in accordance with the manufacturer's instructions. Should the use of a 'space saving' spare wheel become necessary during a period of hire then the journey may continue, but the wheel must be replaced before another journey commences.

6. Tyre inflation kits are not permitted to be used or carried unless supplied by the vehicle manufacturer when first registered.

6.8 Accidents

If at any time the vehicle is involved in an accident/incident, however minor, the driver must inform the Licensing Authority as soon as possible and in any event within 72 hours of the incident/accident in writing or by email to: **licensing@ashfield.gov.uk**.

Minor visual blemishes may not preclude the vehicle from remaining in service, however this will be at the discretion of the Licensing Manager, and vehicle proprietors are advised to contact the Licensing Team to arrange a visual inspection of any blemishes, before continuing to use the vehicle to carry fare paying passengers.

The vehicle must be presented for inspection to the Council as soon as possible after the accident has taken place – an appointment will be arranged upon notification to the Licensing Authority. Failure to present the vehicle could result in the vehicle licence being suspended and/or revoked.

The Licensing Authority may, at any time, request that a vehicle be tested. The vehicle should not be used for hire or reward until the Licensing Authority has confirmed it is satisfied that the vehicle is fit for use. The licence may be suspended in the interim. If, following an inspection, it is deemed that the vehicle is not, fit for use and/or, roadworthy then the vehicle licence may be suspended.

If the vehicle is significantly damaged/not roadworthy, or is being assessed by an insurance company, then the vehicle proprietor must inform the Licensing Authority as soon as possible and in any event within 72 hours.

In these cases the proprietor should provide photographic or other evidence to justify why the vehicle is unable to be presented for examination.

Failure to do so may result in the licence being suspended and/or revoked.

6.9 Vehicle examination and testing requirements

The Hackney Carriage and Private Hire vehicles examination and testing requirements are:

- Any new or replacement vehicles must first pass a Compliance Test before an application can be submitted
- All licensed vehicles must pass a Compliance Test every 6 months;
- Any vehicle licence suspended by an Authorised Officer, will also require a full Compliance Test to be carried out in order that the lifting of the Suspension Notice may be considered.
- The Compliance Test must be undertaken by the vehicle examiners at the Northern Depot, Station Road, Sutton-in-Ashfield Testing Station and these tests must be pre-booked. Further guidance can be found at **Appendix H**.

6.10 Meters

All Hackney Carriages must be fitted with a meter. Meters used to calculate fares must be accurate, display the correct time and be capable of displaying:

- In the case of Hackney Carriages, the various tariffs as approved by the Council (including extra charges recoverable under the approved Table of Fares). The meter shall be calibrated and set to the Council's agreed charging distances and tariffs currently in force.
- In the case of Private Hire Vehicles, any scale of charges provided by the Operator who provides the bookings to the vehicle.

Meters will be checked for accuracy by a measured mile distance or by waiting time.

Meters must be positioned in order that the fare must be clearly displayed to the passenger throughout the journey.

Meters in use must not facilitate fraudulent use. Any signs of tampering including the breaking of any seals may result in suspension and/or revocation.

Private Hire Operators and/or Hackney Carriage Drivers may agree the cost for the journey with the customer prior to the journey commencing. In this situation, the price quoted must be the price charged – there is to be no deviation from this price without the agreement of the customer.

On occasions where a price has been not been agreed prior to the journey commencing, the fare charged must be that which is reflected on the meter where the vehicle is equipped with a meter.

6.11 Advertisements on vehicles

No advertisements shall be placed on any vehicle licensed without the applicant receiving prior written approval from the Licensing Authority.

An application must be made in writing to the Licensing Authority with a copy of the advertisement. Further information can be found at paragraph 6 of **Appendix H**.

6.12 Wheelchair accessibility

All members of the public should have reasonable access to Hackney Carriage and Private Hire services.

There are requirements for all wheelchair accessible Hackney Carriages. Please refer to the 'vehicle specifications and licence conditions' document. For further information please refer to paragraph 6.3 at page 23.

6.13 Taxi Ranks

A full list of the locations of the Hackney Carriage ranks and the times they are in use are available on the Council website or upon request.

Only Hackney Carriages licensed by Ashfield District Council may utilise the taxi ranks in the District. It is against the law to use a taxi rank located in another Council's district

Taxi ranks should only be used when Hackney Carriages are waiting for their next hire. Hackney Carriages may not use taxi ranks as parking places.

Private Hire Vehicles are not permitted on or in close proximity to taxi ranks.

Private Hire Vehicles must not allow customers to alight from their vehicle at a taxi rank.

Hackney Carriage Proprietors must take steps to actively encourage drivers on arriving at a rank/stand to:

- Where the rank is not already fully occupied by other Hackney Carriages the driver must:
- Park the vehicle immediately behind the last vehicle on the stand and face in the same direction; and
- Occupy the space previously occupied when the vehicle(s) immediately in front move on;
- Drivers are required to turn off their engines whilst stationary on the rank in order to reduce any potential pollution.
- Where the rank is fully occupied by other Hackney Carriages, the driver must proceed to an alternative rank.

7. Fares

7.1 Hackney Carriages

The Hackney Carriage Table of Fares (“the tariff”) is set by the Council and states the maximum fare that can be charged by Hackney Carriage drivers for journeys within the District.

Lesser fares can be negotiated by the hirer for journeys.

The hirer may agree to the fare for a journey which ends outside the district being charged other than at the metered rate.

It is an offence for any person to charge more than the metered fare.

The Council may review the Hackney Carriage fare table from time to time. A notice of any variation to the maximum fare shall be advertised by the Council.

A table of authorised maximum fares will be provided to each Hackney Carriage licence holder, which must then be clearly displayed in each vehicle so that it is visible to all hirers.

Drivers must, if requested by the passenger, provide written receipts for fares paid.

7.2 Private Hire Vehicles

The Council does not set fares for Private Hire vehicles.

Best practice is to agree the fare prior to the commencement of the journey with the Private Hire Operator.

Drivers must, if requested by the passenger, provide written receipts for all fares paid.

Drivers of Private Hire Vehicles are not permitted to set fares, all journeys must be calculated on the taximeter, or by way of agreement with the Private Hire Operator at the time that the journey is booked.

8. Private Hire Operators

8.1. Introduction

Vehicles and drivers may only lawfully carry out bookings made through an operator who is licensed by the same authority. When an Operator is unable to fulfil a booking due to unforeseen circumstances, it may pass that booking to another Operator to fulfil the commitment providing it is done so in accordance with the law.

The term 'operate' is defined at section 80 of the 1976 Act as meaning, in the course of a business, to make provision for the invitation or acceptance of bookings for private hire vehicles.

Operators play a key role in ensuring that the public are kept safe, that drivers are suitably trained, experienced, supported to deliver a high quality service, ensure that vehicles are kept in a clean, safe and sound condition at all times.

Whilst it is accepted that operators will have less direct contact with the public than drivers (with the exception of receiving bookings for journeys), to ensure the safety of the public the Licensing Authority must apply similar checks when considering applications for licences and the suitability of the licence holder(s) throughout the duration of the licence. The Licensing Authority must be satisfied that prospective operators and existing licensees are fit and proper persons.

A licensed private hire vehicle must 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 licensed hire vehicle in line with the law.

8.2. Application process

Applications for an Operator licence must be made in writing using the approved application form. The detailed application procedure can be found at **Appendix I**.

- Where the application is being made by a single individual, the questions on the application form should be answered by that individual.
- Where the application is being made by multiple individuals (whether in a formal partnership or not), the questions should be answered jointly by the applicants.
- Where a limited company is applying for a licence, the questions should be answered in respect of both the company and its directors.

This is necessary and particularly relevant to the questions relating to conviction, cautions, insolvency or disqualification, where the Licensing Authority must be satisfied as to the fitness and propriety of each and every applicant.

Unless you are licensed with Ashfield District Council as a driver of Hackney Carriage and Private Hire Vehicles, you will be required to provide the Authority with the necessary information to support your application in order for the Authority to deem you "fit and proper" to be considered for the grant of a Private Hire Operator licence.

Before an application will be accepted the applicant must include the following:

- A Basic DBS certificate (if not already a licensed driver with this Council);
- A Certificate of Good Conduct (if applicable – see **Appendix C**);
- Proof that the applicant is legally permitted to work in the UK –a licence will not be issued for a period longer than that period the applicant is permitted to work;
- The Safeguarding Vulnerable Passengers course certificate;
- The application fee (non-refundable);
- Any other documentation required to progress your application e.g. relevant insurance documents.

If any issues arise during the processing of the application, in the first instance the applicant will be given an opportunity to provide clarification, or if appropriate to amend the application form.

When all required documents and other information have been received, the application will be determined.

In accordance with the Interpretation Act, the term ‘person’ may apply to both individuals and bodies corporate and un-incorporate. Where an application is made by one or more individuals, the provisions herein shall be applied to each individual so specified in the application. Where an application is made by a partnership or limited company, the provisions herein shall be applied to each partner or director, as the case may be, and to the company secretary.

Completed application forms (including any information in annexes required as part of the application) should be submitted to the Licensing Authority along with the applicable fee for the licence. A further charge is made for each Ashfield District Council licensed Vehicle operated by your company.

Operator licences are non-transferrable. In the event of the control of a licensed business passing to a different person, it will be necessary for the new owner of the business to apply for a licence.

Determination

Applications can be refused at Officer level, in line with the scheme of delegation.

Where an application is to be heard by the Licensing Sub-Committee, the applicant will be given an opportunity to make representations, either in writing or orally at a meeting. All representations will be given full consideration prior to a decision being made in respect of the application.

The Licensing Authority will consider information from other sources such as the Police, Children and Adult Safeguarding Boards, other licensing authorities and statutory/non-statutory bodies.

Where an application is granted, a licence document will be issued to the applicant, which confirms their right to operate private hire vehicles. Licences will usually be granted for a period of 5 years. The Council does however reserve the right to grant licences for a shorter duration if deemed necessary in the circumstances.

Where an application is refused, suspended and/or revoked by the Licensing Authority, and the operator is aggrieved by the decision there is a right of appeal to a magistrates' court. Further details will be provided where applicable.

8.3. Fitness and propriety of applicants

In determining applications, the statutory test set out at section 55 of the 1976 Act is applicable, namely that the Licensing Authority "*shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence*".

The Operator is responsible for all persons (and vehicles) that are employed, contracted or otherwise used in the course of their business.

In order to assess the suitability of an applicant the Licensing Authority will undertake any checks and apply whatever processes it considers necessary to determine whether an applicant is 'fit and proper' to hold a licence and ensure that licences are not issued to, or used by, unsuitable people.

In assessing the suitability of an applicant or licence holder, the Licensing Authority will consider the following factors:

- Criminality
- Right to work
- General conduct / standards of behaviour (including online behaviour)
- The conduct of the applicant in making the application (e.g. whether they have acted with honesty and integrity during the application process).
- The previous licensing history of existing / former licence holders (including honesty and integrity).

In addition, the Licensing Authority may need to verify information or obtain further information from other sources such as the Police, other local authorities, statutory & non-statutory agencies and Boards such as the Children and Adult Safeguarding Boards.

All Operators are required to undertake and maintain evidence of checks that satisfy them that their drivers and/or vehicles are suitable, fit and proper to be used in the course of their business. Failure to ensure that appropriate checks are in place may have an adverse impact the operator's licence.

Examples of checks include:

- Ensuring vehicles are at all times roadworthy;
- Monitoring the conduct of drivers and drawing any concerns to the attention of the Licensing Authority;
- Appropriate complaints handling
- Records of any public safety issues/concerns involving drivers and/or vehicles and the reporting of such concerns to the Licensing Authority;
- Good Record keeping (including):
 - Driver hours
 - Vehicle maintenance
 - Vehicle checks
 - Training records

8.4. Convictions

Whilst Operators come into contact with the public less frequently than drivers, they still play a critical role in ensuring the safety of public. In assessing an applicant's fitness and propriety, the Council will take into account any convictions or cautions for criminal offences when determining an application.

The effect of any convictions or cautions which are not considered to be 'spent' under the provisions of the Rehabilitation of Offenders Act will all be considered.

A serious view will be taken where there are offences relating to dishonesty, financial impropriety, violence, substance misuse, abuse of a person with a protected characteristic, safeguarding offences or misconduct under taxi and private hire legislation.

The Warnings, Offences, Cautions & Convictions policy applicable to drivers will be used as a guideline when considering offences for Operators.

It shall be the duty of the Operator to inform the Licensing Authority of the following:

- (a) Any convictions incurred by them or any partner, director or company secretary during the period of the licence for any offence. They must be reported to the Council in writing within 7 days
- (b) Change of address, in writing within 7 days
- (c) Any other changes that could affect the licence

Private Hire Operators are not identified as an exempt profession under the Rehabilitation of Offenders Act 1974, and therefore the provisions of that Act relating to convictions becoming spent after a certain amount of time will apply in full.

The Licensing Authority requires all Operators to fund, obtain and produce a Basic DBS check every year and the details contained within this will be retained by the Licensing Authority. Licence holders are advised to subscribe to the DBS Update Service in order for these checks to be carried out. The Update Service can also be used if an application is made for a renewal application.

8.5. Licences

Any relevant licensing history relating to an applicant or operator will be considered by the Licensing Authority. Where appropriate, further information may be sought from any other relevant body. Consent from the applicant should not be unreasonably withheld. Where consent is refused a licence will normally be refused.

It shall be the duty of the licensed Operator to ensure that the licences of all vehicles and drivers are valid and current.

The Licensing Authority will normally issue an Operator licence for a five-year period.

The Licensing Authority does have the discretion to issue licences for a shorter period, if it considers this to be necessary in the circumstances.

8.6. Safeguarding Vulnerable Passengers Training

All new applicants will be required to attend and pass a Safeguarding Vulnerable Passengers training course prior to a licence being granted.

The training will involve attending a session at a location approved by the Licensing Authority. At the end of the session all applicants will be required to pass a test.

Failure to pass the test will result in the licensee re-taking the training session and exam at their own cost and within a specified amount of time.

The initial test fee is included in the application fee.

All re-tests will be charged in accordance with the fees set by the Council.

8.7 Conditions

Under section 55(3) of the 1976 Act, the Council may attach such conditions to an operator's licence as are believed necessary.

The Council has adopted a schedule of conditions which will be attached to all licences issued. Additional conditions can be attached where deemed appropriate. These conditions are appended at **Appendix J**.

Failure to comply with the conditions set out in this document may result in enforcement action (see paragraph 10.)

8.8 Right to Work in the UK

Please refer to section 5.12

8.9 Operator's Responsibilities

The Operator shall at all reasonable times provide a prompt, efficient and reliable service to members of the public and shall in particular ensure that:

- a. when a vehicle has been hired to attend at an appointed time and place the vehicle shall unless delayed or prevented by sufficient cause attend punctually;
- b. premises provided by the Operator will be within the District or approved by the Licensing Authority and any waiting areas shall be kept clean, heated, ventilated, well-lit with adequate seating;
- c. any telephone facilities and dispatch equipment are maintained in an effective working order;
- d. any complaints received by the Operator that relate to the safety of passengers, other road users, and the general public caused either by the condition of the licensed vehicle or by the driver of the licensed vehicle shall be referred in writing to the Licensing Authority, together with details of any internal any action taken by the Operator.

- e. all vehicles operated shall be maintained in a satisfactory and road worthy condition; and they shall ensure that any defects to vehicles are recorded and corrected as soon as possible.
- f. the Operator shall ensure, without prejudice to any other liabilities imposed under the Act, that all vehicles owned and or operated in association with the Operator and drivers controlled, shall observe and perform in accordance with the conditions of their licence.
- g. the Operator will monitor drivers working hours to ensure they are safe to transport the public. Although there is no legal framework for taxi drivers hours, it is incumbent upon the Operator to ensure drivers do not work excessive hours and that they are fit to drive and thus will not put the public at risk. Guidance relating to driver hours can be found on the Councils website or is available upon request.
- h. the Operator is required to maintain a register of all staff whose work consists of taking bookings and dispatching vehicles, and that such staff have provided the Operator with a Basic DBS Disclosure and that such checks are reviewed annually, and certainly prior to a new employee commencing work.
- i. the Operator is required to maintain a Policy on the employment of ex-offenders that may work for the Operator or undertake work on behalf of the Operator in order to ensure such persons do not pose a risk to the safety of the public. Applicants and licence holders are advised to note the position the Council takes in its Warnings, Offences, Cautions and Convictions Policy (**Appendix D**) when formulating such a Policy.
- j. the Operator will ensure that his / her company maintains a Safeguarding Policy that addresses the needs of the protection of children and vulnerable adults for whom the Operator provides transport services.

Such a Policy shall also include the matters referred to at items h and i above.
- k. the Operator is required to evidence that any other Operator to whom he / she sub-contracts bookings, has necessary comparable protections in place for the safeguarding of children and vulnerable adults.

8.10 Planning

Any premises maintained by the operator (e.g. vehicle depots, booking offices, call centres, etc.) may require planning permission for that usage, irrespective of how many vehicles are to be operated from that location.

It is advised that applicants seek advice from the planning authority prior to making an application for a licence or commencing the use of premises under a licence, as to whether any permission will be required.

Applicants must note that both planning and licensing requirements must be satisfied prior to the commencement of any operation.

8.11 Insurance

Operators are required to have the relevant insurance policies in place for:

- Vehicle;
- Public Liability;
- Employers Liability (where applicable)

8.12 Trading names

Operators will be asked to declare their (proposed) trading name(s) within their application. This is the name by which the business will typically be known by customers and the public, and which will appear on advertising placed by the Operator.

While trading names are a matter for an Operator to determine, the Licensing Authority will, as part of its licensing process, seek to prevent names which may offend or cause confusion from being used in connection with the provision of private hire services in the area.

In particular, applications will not be granted where the proposed trading name is the same or substantially similar, either phonetically or visually, as:

- An expletive, derogatory or offensive term
- A term associated with inequality
- A term with political implications
- A registered trademark (unless the applicant can demonstrate a right to use that mark)
- The trading name of an existing Private Hire Operator, either licensed in the Ashfield area, or trading in a neighbouring area
- The trading name used by a Ashfield hackney carriage proprietor, where the proprietor has previously notified the Council of the use of that name and the name has been used regularly since
- A name which implies official recognition or endorsement by the Council or another regulatory body
- A term in any language other than English which when translated would fall within any of the preceding categories.

Legally, only Hackney Carriages may display the words 'taxi' or 'cab' on their vehicles. For this reason, trading names which include the words 'taxi', 'cab', 'hackney' or 'public hire', or which are phonetically or visually similar, will not be permitted by private hire operators.

If, however, the Operator also provides bookings to hackney carriages, a variation of the permitted trading name including one of these terms may be displayed on advertising specifically in respect of those vehicles, but not in respect of any matter relating to the wider business or to private hire vehicles.

Should concerns arise about the suitability of a trading name, in the first instance these concerns will be discussed with the applicant, who will be given an opportunity to respond or to amend his application.

This section of the policy will not be retrospectively applied to any operator's trading name which has been continuously in use since before the 1st October 2016 (and where an Operator licence has been continually maintained in respect of this), but will apply to any new operator (including new applications made following the lapse of a previous licence) or new trading name applied by an existing operator.

8.13 Door signs and advertising

Under the Council's standard conditions applying to vehicle licences, vehicles which are operated by an operator must display that operator's door signs in prescribed positions, at all times. The door signs must be of a design and colour scheme approved by the Council.

A sample or proof of the proposed door sign should accompany an initial application for an operator's licence, or if this is not possible, should be supplied to the Licensing Authority as soon as practicable following the confirmation of grant of the licence.

A door sign that has not been approved cannot be used on a vehicle. Proofs may be supplied either on paper or electronically.

Approval of a design will not be unreasonably withheld, so long as the signage includes the required wording, is of a suitable size, and relates to the operating company's services only, and not to any other product or service.

Please refer to paragraph 6 of **Appendix G** for further information.

8.14 Complaints / Records

Each Operator shall keep a record of complaints made to them, their agents or employees in relation to any aspects of the business. The records shall be maintained for the duration of the Licence and should be available at all times for inspection by a Police or Authorised Officer.

8.15 Exemption from displaying Licence Plate & Livery

The Licensing Authority has considered requests from certain operators for their businesses or part thereof to be exempted.

Exemptions are only granted in exceptional circumstances and for specialist businesses, for example, those providing novelty vehicles such as stretch limousines and/or executive chauffeur businesses.

In all cases, requests for exemption from one or more of the licence requirements must be made in writing, setting out the exemption sought and the justification as to why this exemption may be considered appropriate, in accordance with the criteria set out in the preceding paragraph. The request must be accompanied at the time of submission (not at a later stage) by suitable and sufficient evidence to support the request.

Where exemptions are granted, the Licensing Authority reserves the right to impose additional conditions or requirements, which may stipulate an alternative way of achieving the initial requirement, or a close alternative.

All exemptions granted will be subject to periodic review, and may be withdrawn at any time and without prior notice if the Licensing Authority can no longer be satisfied that the exemption is necessary, or if there is evidence to suggest it is no longer suitable. The Licensing Authority will not grant exemptions from the signage or display of identification plate requirements for hackney carriages.

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9. Fees & Charges

The Licensing Authority reserves the right to review its fees and charges at any time.

If varied, a notice of the variation will be published by the Council.

All relevant objections will be considered before a determination is made.

The current fees applicable are available on the website, within the Application Packs, and upon request.

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10. Communication & Information Security

Personal Information

In the course of their business, operators and/or drivers will be required to process and store various pieces of data, some of which will be personal data.

The processing and storage of this data will fall under the provisions of the Data Protection Act 1998, which will require certain measures to ensure the security of that data, and to prevent unauthorised breaches of the security, or usage of the information for unauthorised purposes (e.g. sending marketing information without the consent of the subjects).

Licensees are required to establish whether they need to register with the Information Commissioner's office as a data controller. For further information on whether registration is required, please refer to the website of the Information Commissioner's Office, at **www.ico.org.uk**.

Radios

Where a Licensee maintains a radio network for use, the range and/or frequency used by the system may require a business radio licence¹ from Ofcom.

Operators will be asked to confirm whether they have satisfied this requirement on making an application. For further details please visit:

<http://licensing.ofcom.org.uk/radiocommunication-licences/business-radio>

CCTV / Audio & Visual Recording Equipment

Approval in writing must be obtained from the Licensing Authority before CCTV equipment is installed and used in the vehicle.

Each system must be registered with the offices of the Data Protection Registrar with proof of registration supplied to the Licensing Authority before the system can be used.

Any material recorded on the equipment shall be used only as evidence in court proceedings or to aid investigation of a crime or to confirm or rebut complaints made against the driver.

Material captured by the system shall be accessible only to the Police, authorised Council Officers or the CCTV Operator.

The system should be of evidential quality, indicate the time and date and be retained for a period of 31 days if an incident has taken place.

The system must be operated in accordance with the Data Protection Act 1998.

The CCTV Operator must ensure recommended signage and appropriate contact details are displayed in a prominent (though not obstructive) position where they can be easily read by persons both inside and outside of the vehicle. The CCTV Operator must ensure that the notices are maintained in a clean and legible condition.

11. Compliance and Enforcement

11.1 Enforcement

The principal purpose of Hackney Carriage and Private Hire licensing is to protect and promote public safety. The Licensing Authority aims to provide the delivery of efficient, targeted and proportionate regulatory services and as such will monitor its licensees to ensure compliance.

The safety of passengers, pedestrians and other road users is paramount. Compliance assessments can be used to ensure that the driver and/or operator is a “fit and proper” person to hold a licence and/or the vehicle is safe and meets with the standards set by the Council.

Licence holders are expected to promote a professional image of the local Hackney Carriage and Private Hire trade putting the needs of the public first, and not bring into dispute either the reputation of the trade, or the reputation of the Council for having issued a licence to any individual(s).

The Council expects licence holders to comply with the conditions and regulations pertaining to any licence immediately. It is acknowledged however that certain provisions may place financial obligations on existing licence holders and accordingly the Council is prepared to permit a transitional period which will be determined by Officers acting under delegated powers, during which the necessary changes must be made.

The Council will investigate and respond to complaints made by the public and referrals from other agencies & bodies. Officers will undertake proactive inspections and testing as either, day to day activity or as part of programmed operations.

Officers will also carry out other relevant checks so as to be sure that any licence holder is compliant with all of the requirements of the licence (including accuracy of declarations, medical fitness assessments, etc.)

Any breach of the required standards, policies and conditions may result in suspension, revocation and/or any other action deemed appropriate by the Licensing Authority e.g. the issue of advice, the issue of a warning (the level of which relates to the nature of the non-compliance and any previous matters of non-compliance), suspension, revocation and/or prosecution.

Warnings shall remain in force at the discretion of the Licensing Authority, and the Licensing Authority shall consider any previously issued warnings when assessing any new complaints and / or enforcement actions relating to the same licence holder.

Should a licence holder, have been issued with a warning, then further matters brought to the attention of the Licensing Authority will result in a further review of the licence.

The following warnings are available to the Licensing Authority, to use at its discretion, when considering and determining the appropriate response to the matter at hand:

- **28 Days Grace** (relating solely to the maintenance of a vehicle)

- **Advice** – can be issued verbally or in writing to a licence holder to assist with the rectification of a matter and to ensure such a matter or matters are not repeated
- **Warning** - A letter issued to a licence holder following the determination of a complaint or enforcement action, where the licence holder has failed to comply with the conditions of the licence / standards imposed by the Council and has caused the Council concern, and that such a matter does not warrant the issue of a higher level Warning or referral to the Service Director.

In each case where enforcement action is taken, the action shall consist of a letter (save for Verbal Advice) issued to the licence holder detailing the reason for the enforcement action, and the relevant conditions / standards / regulations that the licence holder has failed to comply with.

Licensing holders may appeal the issue of any of the above, by way of writing to the Licensing Manager, and providing evidence that supports any such appeal.

Hearings

Should a Hearing be required to determine the suitability of an applicant or current licence holder (either for the accumulation of warnings, or owing to a single matter that engages our Warnings, Offences, Cautions & Convictions, such cases are determined by way of a Sub-Committee Hearing. A report will be provided ahead of the Hearing to the applicant / licence holder detailing the reasons why the matter requires such a Hearing.

The options available to the Sub-Committee / Delegated Officer include (but are not limited to):

- **Suspension of the licence**
- **Revocation of the licence**
- **Director Warning**
- **The imposition of additional conditions and / or requirements placed on the applicant / licence holder**
- **The grant / refusal of an application**
- **To take no further action**

The Licensing Authority has the power to suspend/revoke the licence with immediate effect if it is necessary in the interests of public safety.

If a licensee or applicant is dissatisfied with a decision of the Licensing Authority, an appeal may be lodged with the local Magistrates Court but this must be within 21 days being notified.

11.2 Suspension/Revocation of a licence

The Licensing Authority can suspend and/or revoke a licence in accordance with:

1. Section 60(1) Local Government (Miscellaneous Provisions) Act 1976 for vehicle licences;
2. Section 61(1) Local Government (Miscellaneous Provisions) Act 1976 for driver licences;
3. Section 62(1) Local Government (Miscellaneous Provisions) Act 1976 for operator licences.

Notification of any such decision will be provided in writing to those affected.

In situations where there are concerns of public safety, the Licensing Authority will consider whether an immediate suspension and/or revocation is necessary in the circumstances. Where a decision is made to suspend and/or revoke with immediate effect, the driver cannot work during any appeal process.

11.3 Refusal to renew a licence

If a decision is taken to refuse to renew a licence and the applicant is not satisfied with the decision then an appeal can be made to the Magistrates Court with 21 days of receiving notification.

11.4 Prosecution of licence holders

The Licensing Authority reserves the right to prosecute licence holders for relevant offences.

11.5 Appeals

Where a right to appeal exists, the appeal can be made to the local Magistrates Court but must be within 21 days of notification.

11.6 Service Requests and Complaints

Members of the public can submit any service requests, complaints and/or concerns about licensed drivers, vehicles and/or operators in writing, or by email to the Licensing Department at:

Ashfield District Council
Urban Road
Kirkby-in-Ashfield
Nottinghamshire
NG17 8DA

Email: licensing@ashfield.gov.uk

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Appendix A

Hackney Carriage & Private Hire Driver: Application procedure

Ashfield District Council [“the Licensing Authority”] will only issue licences to applicants it considers to be ‘fit and proper’ to hold a licence.

1. As part of the application process the applicant must attend and pass the knowledge test. The initial application fee includes the initial test and is non-refundable upon failure. If the applicant fails the test, then they may retake it at a later date. All re-tests will be charged in accordance with the fees set by the Council and are non-refundable in the event of failure.
2. An application should be made on the approved form. The form must be completed in full, honestly, accurately and signed by the applicant.
3. Applications will only be accepted from applicants that have held a full driving licence for at least one year. The driving licence must have been issued in the UK, the European Community (EC) or one of the other countries in the European Economic Area (EEA). Applicants that hold full EC or EEA licences for at least one year will have the length of time that they have held such licences taken into consideration, however holders of these licences will only be issued with a licence for 12 months – the licence will not be renewed unless the EC or EEA licence is exchanged for a full UK licence (as required by national legislation).
4. Applicants will be required to obtain an Enhanced Disclosure Certificate from the Disclosure and Barring Service. The contents of this certificate will be assessed in accordance with the Licensing Authority’s policy on convictions in determining the fit and properness of the applicant.
5. A Licence will not be granted unless the applicant is able to provide at least five years UK address history except in the following cases:
 - The applicant is able to provide a document from an EU member state, which is the equivalent of a UK issued Enhanced DBS Certificate.
 - If this cannot be provided then an official document provided by the embassy of a non-EU member state will be acceptable, provided that the document can be verified and is comparable to a UK issued Enhanced DBS Certificate.
 - In either of the cases above, the onus is on the applicant to obtain such a document, and the applicant remains liable for all associated costs.
6. Applicants must agree to the Licensing Authority verifying their DVLA Driver licence, and will require the applicant to give their consent to such a check to be carried out. Such consent lasts for the period for which any licence is granted.
7. Applicants are required to undergo a medical which meets “Group II” standards with a medical provider approved by the Licensing Authority. A medical to Group II standards will be required on first application and then every five years from the age of 45. On reaching the age of 65 a medical will be required annually.

It should be noted that the Licensing Authority may also request a medical at any other time it feels may be necessary to ascertain a persons' fitness to drive a licensed vehicle.

8. Before a new licence is granted the applicant will also be required to undertake, and pass a test following the, Safeguarding Vulnerable Passengers training. Applicants can undertake the training at the Councils' offices or at a neighbouring Council who provide the same training course. Failure to pass the test will result in the application being refused.
9. Applications should include the following:
 - Two recent colour passport standard photographs that are a good likeness of the applicant;
 - A DVLA driving photo-card (where applicable);
 - A completed DVLA mandate;
 - A completed DBS disclosure with and all the identification documents required as part of the DBS check (unless **Appendix B** is applicable)
 - A certificate of good conduct (if applicable).
 - Proof that the applicant is legally permitted to work in the UK –a licence will not be issued for a period longer than that period the applicant is permitted to work.
 - Full Group II Medical Certificate or proof of exemption (if applicable).
 - Complete and pass the Safeguarding Vulnerable Passengers course certificate.
 - Complete and pass the Knowledge Test
 - The application fee (non-refundable)
 - Any other documentation required to progress your application.
10. The Licensing Authority will only consider an application when it has received all relevant documentation.
11. In certain cases, applications may need to be referred to the Licensing Sub-Committee or any other officer with the appropriate delegations. In these cases the Licensing Sub-Committee/Officer with the delegation will make a decision on the application.
12. It is the responsibility of the applicant to ensure a renewal application is made prior to the expiry of an existing licence. Failure to do so will result in the driver being treated as a new driver and will be required to submit an application on this basis before a licence will be issued.

Right of Appeal

13. Where an application is refused at officer level, the applicant will be given an opportunity to make representations, either in writing or orally at a meeting with an officer with the appropriate delegations or the Licensing Sub-Committee where appropriate. Any representations will be given full consideration prior to a decision being made in respect of the application.
14. Where an applicant is still not satisfied there will be a further a right to appeal to the local Magistrates Court within 21 days of notification.

Appendix B

Disclosure and Barring Service (DBS): Procedure and Declaration

Drivers will be provided with an application pack providing details of the DBS check process.

All applicants will be required to submit the evidence and completed application form for an Enhanced Disclosure. Once checked and approved by a member of the Licensing Authority, the form will be sent to the Disclosure and Barring Service.

The applicant is required to sign up to the DBS Update Service as this will allow the Licensing Authority to undertake **six-monthly** checks (or more frequent checks if deemed appropriate) at a significantly reduced cost to the applicant.

The applicant will be sent a printed DBS disclosure certificate which they will be required to provide to the Licensing Section.

A licence will not be issued without the Licensing Authority having received a copy of the DBS certificate.

Once a DSB certificate is issued the applicant has a period of 30 calendar days to subscribe to the DBS update service (from the date of issue).

The Licensing Authority requires all drivers to undergo a DBS check every six months and upon renewal. Signing up to the DBS Update Service will enable the Licensing Authority to undertake this check on behalf of the applicant. **If this service is not subscribed to, it will be the responsibility of the Applicant to ensure a DBS certificate is available for the necessary background check to be completed.**

Declaration

When submitting an application for the grant or renewal of a Hackney Carriage & Private Hire Dual Driver Licence, applicants are required to declare any convictions they may have.

For the purpose of these guidelines, simple and conditional cautions, reprimands, warnings, endorsable fixed penalties, and any other offences should be declared and shall be treated as convictions for the purposes of these applications.

For convictions or fixed penalties for offences concerning the driving or keeping of a motor vehicle, relevant details are required for the five year period preceding the date of the application.

For criminal offences, details are required in respect of ALL offences no matter how old.

Applicants should be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, applicants for a licence are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions.

The Licensing Authority will in all cases verify an applicant's identity and require a criminal record check (DBS) to be undertaken. Where the check reveals that the applicant has a record of convictions or cautions and warnings the Licensing Authority will consider:

- The nature and seriousness of offence
- When the offence was committed
- The age of the applicant when the offence was committed
- Any other factors which might be relevant

The Licensing Authority will seek intelligence and corroborate information provided within the applications forms from all 'approved sources' such as the Police, Statutory and non-Statutory Agencies, Social Services Alcohol and Drug Rehabilitation Units, Child Protection Agency, G.P's. etc.

All convictions will considered in line with the District Council's Warnings, Offences, Cautions & Convictions Policy – see **Appendix D**.

The applicant is required to inform the Licensing Authority of any charges, warnings, cautions, convictions etc. during the period the licence is held. This must be as soon as practicably possible. Failure to do so within 14 days of having been charged, warned, cautioned, convicted, etc, could result in the licence being reviewed.

Any applicant refused a Hackney Carriage & Private Hire (Dual) Driver licence on the ground of previous criminal convictions will be informed in writing and given the opportunity to have that decision referred to an officer with the appropriate delegations and/or a Licensing Sub-Committee where appropriate for it to be re-considered.

If the applicant is refused a licence on the grounds that he/she is not a fit and proper person to hold such licence he/she will be informed in writing and advised of his/her right of appeal to a Magistrates' Court. Any appeal must be made within 21 days of being notified of the Council's decision.

Appendix C

Certificate of Good Conduct: Guidelines relating to Criminal Checks for Persons who have spent time outside of the United Kingdom

Where an applicant/driver has been absent from the UK, a Disclosure and Baring Service (DBS) check would not be sufficient evidence of his/her criminal record.

All applicants/drivers (including those renewing a licence) must complete as part of the application form a questionnaire in order to ascertain what time, if any, the applicant has spent resident outside of the UK since the age of 10.

Under s.57 Local Government (Miscellaneous Provisions) Act 1976 it is an offence to knowingly or recklessly make a false statement or to omit information required by the Licensing Authority.

Applicants/drivers who have been resident in any other country or countries for 6 months or more will be required to provide a Certificate of Good Conduct from each country (unless previously seen by this Authority). For these purposes, a "Certificate of Good Conduct" means an extract from the judicial record or equivalent document issued by a competent judicial or administrative authority in the relevant country testifying to good conduct or to any criminal convictions recorded against the individual.

The Licensing Authority may wish to approach the relevant Embassy or appropriate Body directly to verify the documents provided. The applicant/driver will be advised of any costs to be incurred and these costs must be met by the applicant/driver. Consent should not be unreasonably withheld.

Where necessary documents must be translated into English or another language by a translator approved by the Licensing Authority. The cost of obtaining an appropriate translation must be met by the applicant/driver.

All applicants/drivers who have been resident in the UK will be required to obtain an enhanced DBS check for the period of time they have been resident in the UK.

Applicants/drivers who are unable to provide the necessary DBS check or Certificates of Good Conduct to the satisfaction of the Licensing Authority, may be unable to satisfy the licensing authority that they are a fit and proper person to hold a driver's licence and the application may be refused or any existing licence may be suspended/revoked.

Any person aggrieved by a decision of the Licensing Authority has the right of appeal to a Magistrates' Court. Such appeal must be made within 21 days of being notified of the Licensing Authority's decision.

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Appendix D – Warnings, Offences, Cautions & Convictions Policy

1. Introduction

- 1.1 This policy provides guidance to the Licensing Authority (and its Committee/ Sub-Committee and/or authorised officers) on considerations when determining whether an applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage & Private Hire (Dual) Driver Licence or Private Hire Operator Licence. Any decision made by the Licensing Authority/Committee(s) will be on the balance of probabilities and will not be required to meet the 'beyond all reasonable doubt' standard of proof.
- 1.2 It is the responsibility of the Licensing Authority, Ashfield District Council (referred to as the Council hereafter) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. In exercising this duty the Council will consider the safety of the public as its primary consideration.
- 1.3 Public Safety is paramount and prior to granting a licence, the Licensing Authority should ensure:
- That a person is a 'fit and proper' person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II);
 - That the person does not pose a threat to the safety of the public;
 - That the public are safeguarded from dishonest persons;
 - That the person does not pose a threat to the safety of children, young persons and vulnerable adults
- 1.4 The term "fit and proper person" for the purposes of licensing is not legally defined. In assessing whether an individual is 'fit and proper' the Licensing Authority should, but is not limited to, consider the following, and take any other relevant information into account:
- Criminality – including convictions and cautions
 - Warnings, reprimands and fixed penalty notices
 - Human Rights
 - Driving History including period of holding a driver's licence, number of endorsed driving licence penalty points and any other relevant information;
 - Right to work
 - Testing – Medical fitness, driving ability and any other relevant testing;
 - The fitness and propriety of Private Hire Operators, ensuring the business is run in a safe and professional manner, having regard to management controls, compliance with the law and that drivers are properly monitored to ensure that they behave in an appropriate manner and comply with their duties and responsibilities, including the monitoring of drivers hours
 - The conduct of the applicant in making the application (e.g. whether they have acted with openness and integrity during the application process).
 - Licensing history of existing/former licence holders;
 - Complaints made against them to a Licensing Authority

The Licensing Authority may (where appropriate) seek information from other agencies including, but not limited to, the Police, other Authorities including Children and Adult Safeguarding Boards and other statutory bodies.

- 1.5 This policy will be applicable to any person with an interest in taxi and private hire licensing. In particular, but not exclusively, to:
- Applicants for a Hackney Carriage & Private Hire (Dual) Driver licence
 - Existing licensed drivers whose licences are being reviewed
 - The holders of Private Hire Operator licences
 - Licensing officers
 - Members of the Licensing Committee / Sub-Committee
 - Magistrates hearing appeals against local authority decisions
- 1.6 The Licensing Authority will ensure that each case is considered on its individual merits. The Policy may be departed from but this should be proportionate and justifiable in the circumstances. If an applicant has been convicted of a criminal offence(s), the Licensing Authority is not permitted to review the merits of the conviction [Nottingham City v Mohammed Farooq (1998)]
- 1.7 In this policy the word “conviction” includes convictions and cautions.
- 1.8 In this policy “date sentence has ended” is taken to be the date at which the whole of the period as sentenced by the court has elapsed (and not necessarily the length of time served by the applicant). For example, if a sentence is five years imprisonment but the applicant only served 3 years, the date that the sentence ends will be five years from the date of sentencing. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term “since completion of sentence” is to be construed in a similar way to “date sentence has ended”.
- 1.8 In this policy the word “applicant” refers to new applicants and existing licence holders.

2 General Policy

- 2.1 Whilst the Licensing Authority may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, the applicant would normally be required to:
- a. Remain free of conviction for an appropriate period as detailed below; and
 - b. Evidence that they are a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).
- 2.2 The Licensing Authority may depart from the guidelines provided in this policy where it is proportionate and justifiable in the circumstances. Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.3 Outstanding Charges or Summonses

If the Licensing Authority is notified of an outstanding charge or summons which could pose a risk to public safety the Licensing Authority may suspend, revoke or adjourn the application until proceedings have been concluded or information is provided which satisfies them that the risk no longer exists.

Each case will be determined on its own merits;

2.4 Non-conviction information

Should the Licensing Authority receive information which suggests an applicant / existing licence holder could pose risk to the public safety, consideration should be given to refusing/revoking the application.

- 2.5 In making a determination, public safety of the public must be a paramount consideration for the Licensing Authority.
- 2.6 Where an applicant has had a Hackney Carriage and / or Private Hire Driver licence revoked by another Licensing Authority, this Licensing Authority will not normally grant a licence until at least twelve months has elapsed since the revocation.

3. Powers & Requirements

- 3.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow a Licensing Authority to suspend, revoke or refuse to renew a licence if:
- 3.1.1 the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence;
 - 3.1.2 failure to comply with the provisions of the Town Police Clauses Act 1847;
 - 3.1.3 failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976;
 - 3.1.4 or any other reasonable cause.
- 3.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, permits a Licensing Authority to take into account all convictions recorded against an applicant or the holder of a Hackney Carriage & Private Hire (Dual) Driver Licence, whether spent or not. The Licensing Authority will consider all relevant convictions, particularly where there is a history of offending or a pattern of repeat offending. In accordance with this Act, all convictions, cautions, warnings and reprimands must be declared by the Applicant.
- 3.3 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to be satisfied that an applicant licence is a “fit and proper” person to hold such a licence. If, however, an applicant has any convictions, warnings, cautions or charges awaiting trial, the Licensing Authority will consider:
- 1. How relevant the offence(s) are to the licence being applied for
 - 2. How serious the offence(s) were
 - 3. When the offence(s) were committed
 - 4. The date of conviction
 - 5. Circumstances of the individual concerned
 - 6. Sentence imposed by the court and the Judges reasons (obiter dicta) for coming to that decision
 - 7. The applicant’s age at the time of conviction
 - 8. Whether they form part of a pattern of offending
 - 9. Any other character check considered reasonable (e.g. personal references)
 - 10. Any other factors that might be relevant, for example:
 - (a) The previous conduct of an existing or former licence holder,
 - (b) Whether the applicant has intentionally misled the council or lied as part of the application process,
 - (c) Information provided by other agencies / council departments.
- 3.4 Existing holders of a Hackney Carriage & Private Hire (Dual) Driver licence are required to notify the Licensing Authority in writing within seven days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions). Failure to do so will raise concerns as to the honesty of the licence holder and may be taken into account as part of any subsequent renewal applications or reviews.
- 3.5 Applicants can discuss further the implications of a caution/conviction may have on any application or existing licence with the Licensing Service.

- 3.6 The Licensing Authority requires an Enhanced Disclosure from the Disclosure and Barring Service (DBS) for any applicant for a driver licence. Applicants applying for the grant or a renewal of a driver's licence will also be required to provide an enhanced DBS at their own expense on application and at any other time as determined by the Licensing Authority. Alternatively, a subscription to the Update Service is available.
- 3.7 The Licensing Authority will use all information available to it when determining applications or an entitlement to continue holding a licence. The Licensing Authority may (where appropriate) seek information from other agencies including, but not limited to, the Police, other Authorities including Children and Adult Safeguarding Boards and other statutory bodies.
- 3.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Section 57(3) Local Government (Miscellaneous Provisions) Act 1976 stipulates where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 3.9 For renewal applications and current licence holders this policy will be applied retrospectively.
- 3.10 If an offence / information is not covered by this Policy it will not preclude the Licensing Authority from taking it into account.

4 Immediate Revocation / Suspension of Hackney Carriage & Private Hire (Dual) Driver Licence

- 4.1 If the Licensing Authority makes a decision to revoke or suspend a Hackney Carriage & Private Hire (Dual) Driver licence, it will be required to consider whether that revocation/suspension should take immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.
- 4.2 The Licensing Authority can only suspend/revoke with immediate effect if it is in the interests of public safety to do so.
- 4.3 Before making determination, where it is practicable to do so, the Licensing Authority should provide the licence holder an opportunity to make representations. It may not be practicable to do so in circumstances where public safety is at risk.
- 4.4 The overriding consideration is the safety and protection of passengers and the general public.
- 4.5 Matters such as employment status and personal circumstances should not be taken into account when determining whether an applicant is fit and proper to hold a licence and would not in any event outweigh the public safety factor.
- 4.6 Where the Licensing Authority has decided that a licence holder is no longer “fit and proper” to hold a licence, for public safety reasons, the presumption will be that the revocation of the licence shall have immediate effect.
- 4.7 If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, the Council will give notice to the driver, which includes a statement to that effect and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

4.8 Appeals

A right of appeal exists where a decision has been made to refuse, revoke or suspend a licence because the fit and proper test has not been satisfied.

All appeals should be lodged at the Magistrate’s Court within 21 days of the notice of refusal/decision being received. [Local Government (Miscellaneous Provisions) Act 1976, s77(1)].

Where a decision is made to suspend and/or revoke with immediate effect, the driver cannot carry on its business during any appeal process. [Local Government (Miscellaneous Provisions) Act 1976, s77(3)]

5. Offence considerations

This section deals with offences and applies to **new, renewal and review** applications for Driver, Vehicle and Operator Licences.

Unless there are exceptional circumstances (and each case will be considered on its individual merits), the Council will adhere to the statements listed in this Section of the Warnings, Offences, Cautions and Convictions Policy.

5.1 Offences Resulting in Death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person, or was intended to cause the death or serious injury of another person, a licence will normally be refused or revoked. Such offences include but are not limited to:

1. Murder
2. Manslaughter
3. Manslaughter or culpable homicide while driving
4. Terrorism offences
5. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.2 Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, a licence will normally be refused or revoked. Such offences include, but are not limited to:

1. Slavery
2. Trafficking
3. Child sexual abuse
4. Exploitation
5. Grooming
6. Psychological, emotional or financial abuse
7. Kidnapping or abduction
8. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.3 Offences involving Violence Against the Person

Licensed drivers have close regular contact with the public. A serious view will be taken with those who have convictions for offences involving violence. Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. Such offences include, but are not limited to:

1. Arson
2. Malicious wounding or grievous bodily harm which is racially aggravated

3. Actual bodily harm which is racially aggravated
4. Grievous bodily harm with intent
5. Robbery
6. Possession of firearm
7. Riot
8. Assault Police
9. Common assault with racially aggravated
10. Violent disorder
11. Threats to kill
12. Resisting arrest
13. Hate crime against a person
14. Common assault/Battery
15. Assault occasioning actual bodily harm
16. Affray
17. S5 Public Order Act 1986 offence (harassment, alarm or distress)
18. S.4 Public Order Act 1986 offence (fear of provocation of violence)
19. S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
20. Obstruction
21. Criminal damage
22. Harassment
23. Offences involving anti-social behaviour
24. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.4 In the event of a licence being granted, despite convictions against the applicant / licensee, a strict warning both verbally and in writing should be issued. If a warning is issued, this will remain in place for a period commensurate with the time periods in the relevant sections above.

5.5 Possession of a Weapon

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

5.6 Sexual Offences

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will normally be refused a licence upon application, renewal or review. Such offences include but are not limited to:

1. Rape
2. Assault by penetration
3. Offences involving children or vulnerable adults
4. Grooming, Trafficking or other Sexual Exploitation related offences (adults and/or children)
5. Making or distributing obscene material
6. Possession of indecent photographs depicting child pornography.
7. Sexual assault
8. Indecent assault

9. Exploitation of prostitution
10. Making indecent telephone calls
11. Importuning
12. Indecent exposure
13. Soliciting (kerb crawling)
14. Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.7 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.

5.8 Dishonesty

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

1. theft
2. burglary
3. fraud
4. benefit fraud
5. handling or receiving stolen goods
6. forgery
7. conspiracy to defraud
8. obtaining money or property by deception
9. other deception
10. taking a vehicle without consent
11. or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

5.10 Alcohol & Drugs

5.11 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.

5.12 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed.

In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

5.13 An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of

convictions for drunkenness, including drunk and disorderly or drunk and incapable, could indicate a medical problem necessitating critical examination and refusal of licence.

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

5.15 Discrimination

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

1. Racially-aggravated criminal damage
2. Racially-aggravated offence
3. Hate crime against person or persons
4. Hate crime against property
5. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

5.16 Motoring Convictions

Hackney Carriage & Private Hire Drivers are professional drivers charged with the responsibility of carrying the public.

5.17 It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

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

5.19 Ashfield District Council will consider each motoring conviction in line with our stance as to what constitutes Major Traffic Offences (Schedule One), Minor Traffic Offences (Schedule Two), and Hybrid Traffic Offences (Schedule Three).

5.20 Driving Offences involving the Loss of Life

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

1. Causing death by dangerous driving

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

5.21 Drink Driving / Driving Under the Influence of Drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed.

5.22 In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

5.23 Major Traffic Offences (see Schedule One)

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

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

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

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

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

5.28 Minor Traffic Offences (see Schedule Two)

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

- 5.29 An application with a points total **above 7** will merit further consideration. A licence will normally be refused where the applicant has **12 or more penalty points** on his / her DVLA licence for minor traffic offences but has not been disqualified from driving.
- 5.30 Where an offence has resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard.
- 5.31 Generally, a period of **2 years** free from conviction must have elapsed from the restoration of the DVLA licence.
- 5.32 Where an existing licence holder is disqualified from driving the licence will normally be revoked under delegated powers.

5.33 Totting Up Disqualifications

Where a number of traffic offences has resulted in a driver receiving **12 penalty points** or more on his/her licence the driver will be disqualified from driving unless the Court is satisfied that exceptional hardship would be suffered by an individual if disqualified. This is known as a “totting-up” disqualification. Where an applicant has a totting-up disqualification an application will usually be refused until a period of between **2 years** has lapsed from the restoration of the DVLA licence depending on the seriousness of the offences which led to the totting up.

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

5.35 Using a Hand-Held Device whilst Driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

5.36 Motor Insurance Offences

A serious view will be taken of convictions of driving a vehicle without valid motor insurance. At least **3 years** should elapse since the conviction for the offence, or since the restoration of the DVLA Driver Licence (should the conviction result in the revocation of the DVLA Driver Licence) before a licence would normally be granted.

5.37 Plying For Hire Offences

Convictions for the offence of illegal plying for hire usually also result in a conviction for driving a vehicle without valid motor insurance. At least **3 years** should elapse since the conviction for either offences, or since the restoration of the DVLA Driver Licence (should the conviction result in the revocation of the DVLA Driver Licence) before a licence would normally be granted for a Hackney Carriage & Private Hire (Dual) Driver licence.

5.38 A Private Hire Operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without the appropriate motor insurance being in force, will have his / her Operator licence revoked immediately and prevented from holding an Operator licence for **3 years**.

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Schedule One - MAJOR TRAFFIC OFFENCES

AC10 Failing to stop after an accident

AC20 Failing to give particulars or to report an accident within 24 hours

AC30 Undefined accident offences

BA10 Driving while disqualified by order of court

BA30 Attempting to drive while disqualified by order of court

BA40 Causing death by driving while disqualified

BA60 Causing serious injury by driving while disqualified

CD10 Driving without due care and attention

CD20 Driving without reasonable consideration for other road users

CD30 Driving without due care and attention or without reasonable consideration for other road users

CD40 Causing death through careless driving when unfit through drink *

CD50 Causing death by careless driving when unfit through drugs *

CD60 Causing death by careless driving with alcohol level above the limit *

CD70 Causing death by careless driving then failing to supply a specimen for analysis*

CD80 Causing death by careless or inconsiderate driving *

CD90 Causing Death by driving: unlicensed, disqualified or uninsured drivers *

CU80 Using a mobile phone or hand held device while driving a vehicle

DD40 Dangerous driving

DD60 Manslaughter or culpable homicide while driving a vehicle *

DD80 Causing death by dangerous driving *

DD90 Furious driving

DG60 Causing death by careless driving with drug level above the limit*

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

DR10 Driving or attempting to drive with alcohol level above limit +

DR20 Driving or attempting to drive while unfit through drink +

DR31 Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity

DR40 In charge of a vehicle while alcohol level above limit +

DR50 In charge of a vehicle while unfit through drink +

DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive

DR61 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive +

DR70 Failing to provide specimen for breath test +

DR80 Driving or attempting to drive when unfit through drugs +

DR90 In charge of a vehicle when unfit through drugs +

DG10 Driving or attempting to drive with drug level above the specified limit

DG40 In charge of a vehicle while drug level above the specified limit

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

IN10 Using a vehicle uninsured against third party risks

LC20 Driving otherwise than in accordance with a licence

LC30 Driving after making a false declaration about fitness when applying for a licence

LC40 Driving a vehicle having failed to notify a disability

LC50 Driving after a licence has been revoked or refused on medical grounds

MS50 Motor racing on the highway

UT50 Aggravated taking of a vehicle

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

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Schedule Two - MINOR TRAFFIC OFFENCES

CU10 Using vehicle with defective brakes
CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30 Using a vehicle with defective tyre(s)
CU40 Using a vehicle with defective steering
CU50 Causing or likely to cause danger by reason of load or passengers
CU80 Using a mobile phone while driving a vehicle

MS10 Leaving a vehicle in a dangerous position
MS20 Unlawful pillion riding
MS30 Play street Offences
MS40 Driving with uncorrected defective eyesight or refusing to submit to a test
MS60 Offences not covered by other codes
MS70 Driving with uncorrected defective eyesight
MS80 Refusing to submit to an eyesight test
MS90 Failure to give information as to the identity of driver etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations
PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

SP10 Exceeding goods vehicle speed limit
SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30 Exceeding statutory speed limit on a public road
SP40 Exceeding passenger vehicle speed limit
SP50 Exceeding speed limit on a motorway
SP60 Undefined speed limit offence

TS10 Failing to comply with traffic light signals
TS20 Failing to comply with double white lines
TS30 Failing to comply with a "Stop" sign
TS40 Failing to comply with direction of a constable/ warden
TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60 Failing to comply with school crossing patrol sign
TS70 Undefined failure to comply with a traffic direction sign

Schedule Three - HYBRID TRAFFIC OFFENCES

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers

- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Undefined speed limit offence

Other non-endorsable motoring offences i.e. no MOT

NOTE:

All offences in Schedules One to Three may also include the following codes:

Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

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

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

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Appendix E

Hackney Carriage & Private Hire (Dual) Driver Licence:

Conditions attached to Licence

Hackney Carriage & Private Hire (Dual) Driver Licences are issued subject to the following conditions. Drivers are advised to study these conditions carefully, and are warned that for non-compliance the licence may be revoked.

1. The Driver shall behave in a civil and orderly manner at all times when carrying out his or her duties, and not act in a manner to a passenger, member of the public or other licence holder that may:
 - Cause any person to take offence at their actions;
 - Cause any person to believe their actions are inappropriate;
 - Cause any person to fear for their physical safety;
 - Cause any person to doubt their integrity; and
 - Bring in to disrepute the integrity of the Council for having issued a licence to such person.
2. The Driver shall be clean and presentable in appearance, and if one is supplied wear the uniform provided by the employer.
3. The Driver shall wear on his or her person, the badge issued by the Council for that purpose in a position clearly visible to passengers, and if requested produce it on demand to the passenger or Authorised Officer.
4. The Driver shall not at any time lend or give his or her badge or licence to any other person, save for the copy of the licence that is required by these conditions to be given to the Private Hire Operator.
5. The Driver shall report the loss of the licence and/or badge to the Council as soon as such loss becomes known, and arrange an appointment with the Licensing Officer for the issue of any replacement and make payment for any appropriate fee.
6. The Driver shall not at any time drive a vehicle if he or she no longer holds, has had suspended or is disqualified from holding a DVLA driving licence for that type of vehicle.
7. The Driver shall, before commencing to drive the vehicle, deposit a copy of his Hackney Carriage & Private Hire (Dual) Driver licence with his/her Private Hire Operator for retention by the Operator until such time as he/she ceases to be permitted or employed to drive the vehicle or any other vehicle used by the same Operator.
8. The Driver shall only drive vehicles licensed by Ashfield District Council, unless he or she is appropriately licensed to use a vehicle licensed by another Authority.
9. The Driver shall not drive a licensed vehicle if he or she is not insured to do so.

10. The Driver shall not drive a licensed vehicle without the licence plate securely attached to the rear bumper or rear bodywork of the vehicle (save for those Private Hire Vehicles that have been granted an Exemption Notice).
11. The Driver shall when driving or in charge of a vehicle, wear a seat belt at all times and understand that the Driver is only exempt from wearing a seatbelt when actually carrying passengers for hire or reward, and and, when driving a Hackney Carriage plying for hire within the Ashfield District.
12. The Driver shall ensure that the all passengers aged 12 years or more or whose height is 135cm or more, wear a seat belt throughout the duration of the journey.
13. The Driver shall, when carrying passengers who are children aged under 12 years of age or whose height is less than 135cm, ensure that:
 - Children under 3 years of age, if carried in the front seat, are seated in the appropriate child car seat;
 - Children under 3 years of age, if carried in the rear seats, are secured by way of the appropriate child restraint;
 - Children under 3 years of age, if no child car seat is available, may travel unrestrained on the rear seats;
 - Children aged 3 years or more but under 12 years of age or up to 135cm tall, if carried in the front seat, are secured by way of the appropriate child restraint or seatbelt;
 - Children aged 3 years or more but under 12 years of age or up to 135cm tall, if carried in the rear seats, are secured by way of the appropriate restraints or seatbelts.
14. The Driver shall when driving the vehicle take all reasonable precautions to ensure the safety of passengers and other road users.
15. The Driver shall drive the vehicle with full regard to the speed restrictions in force on any roads travelled.
16. The Driver shall drive the vehicle with full regard to the conditions of the road and all climate hazards.
17. The Driver shall ensure that before the vehicle is used, that copies of the Certificate of Insurance, Certificate of Compliance and M.O.T. Certificate are available within the vehicle, so as to be available to an Authorised Officer upon request.
18. The Driver shall if it has been agreed, or whose employer has agreed, to attend a certain time and place, (unless delayed or prevented by some reasonable cause) attend with the vehicle as agreed.
19. The Driver shall not carry more people in the vehicle than the number of persons permitted by the vehicle licence (or as stated on the vehicle licence plate).
20. The Driver shall not carry any other person in the vehicle without the permission of the hirer.

21. The Driver shall when collecting any passenger proceed to the requested destination by the shortest available route, and if asked by the passenger, indicate the route they are going to take, subject to any directions given by the hirer.
22. The Driver shall deliver the passenger to their chosen destination as agreed when the booking was made, unless he or she has exceptional cause to do so, or is otherwise directed by the hirer.
23. The Driver shall:
 - Take a reasonable amount of luggage including wheelchairs and children's pushchairs (the pushchair shall be folded and secured in the luggage area of the vehicle);
 - Give reasonable assistance in loading and unloading luggage;
 - Give reasonable assistance in removing luggage to or from the entrance of any building, station or place at which he or she takes up or sets down passengers.
 - Give reasonable assistance to elderly, vulnerable or disabled persons with entering or alighting from the vehicle, and any other reasonable assistance during the course of the journey.
24. The Driver shall when in charge of a designated Wheelchair Accessible Hackney Carriage or Private Hire Vehicle make the vehicle available for hire to any person requiring "wheelchair mobility assistance", and provide any necessary assistance to assist the wheelchair user with entering or alighting from the vehicle, and any other reasonable assistance during the course of the journey. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.
25. The Driver shall not charge a higher price for any journey, for a person requiring "mobility assistance" than would otherwise be charged for a person without a need for the provision of "mobility assistance" for the same journey.
26. The Driver of a vehicle which has been hired, by or on behalf of a blind or partially sighted person, or a disabled person who is accompanied by his / her assistance dog, or by a person who wishes such a blind or partially sighted person, or a disabled person to accompany him / her in the vehicle shall, carry the passenger and his dog, allow it to remain with the passenger and not make any additional charge for doing so. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption. The driver is not compelled to convey any other type of animal.
27. The Driver shall if the hirer of a vehicle is accompanied by any animal(s) make sure that it is securely contained to the satisfaction of the driver, if he deems fit, carry the passenger and his animal(s) and not make any additional charge for doing so. If the Licensing Authority is satisfied that it is appropriate on medical grounds to exempt the person from the above requirement it shall issue a certificate of exemption.
28. The Driver shall ensure that any animal(s) transported in the licensed vehicle are placed in the rear seating compartment of the vehicle.

29. The Driver shall, if asked to transport an unaccompanied child or if a passenger requests that the Driver wait until they are safely inside the house, agree to such requests.
30. The Driver shall not, without reasonable cause, unnecessarily prolong in distance or time, the journey for which the vehicle was hired.
31. The Driver shall provide a written receipt to the hirer if requested to do so.
32. The Driver shall immediately after the termination of any hiring of the vehicle or as soon after as practicable carefully search the vehicle for any property which may have been accidentally left there.
33. The Driver shall deliver any property which is left in the vehicle as soon as possible and in any event within 24 hours to a Police Station in the Council's district, and if required to do so, leave it in the custody of a Police Officer having obtained a receipt for it. The Driver shall notify his/her Operator of such an action having been undertaken.
34. The Driver shall not sound the vehicle horn when arriving at an address to pick up passengers.
35. The Driver shall respect the request of a passenger should that passenger choose not to engage in conversation.
36. The Driver shall not play any radio or other sound reproducing equipment in the vehicle, except for the purpose of sending or receiving messages, without the express consent of the hirer.
37. The Driver shall not drink or eat in the vehicle whilst a passenger or passengers are on-board.
38. The Driver shall not whilst driving (including whilst stationary with the vehicle engine running and the handbrake not engaged) use a handheld mobile phone or any other handheld electronic mobile device, other than a two-way radio, which performs an interactive communication function by transmitting and receiving data.
39. The Driver shall comply at all times to the Health Act 2006 and shall not at any time smoke (including electronic cigarettes) or permit any passenger to smoke (including electronic cigarettes) in any licensed Hackney Carriage or Private Hire vehicle.
40. The Driver shall not at any time when driving the vehicle cause or permit the vehicle to stand at any bus stop or in any bus lay-by.
41. The Driver shall not at any time when driving the vehicle permit the vehicle to be driven in any bus lane, with the exception of bus lanes that specifically permit such use.
42. The Driver shall not at any time when driving the vehicle cause or permit the vehicle to stand in a disabled bay without displaying the appropriate badge or other lawful authority.

43. The Driver shall not at any time when driving the vehicle cause or permit the vehicle to be parked in such a position so as to cause an unnecessary obstruction or be in a dangerous position (e.g. double parked, parked at or close to a road junction).
44. The Driver shall not at any time when driving the vehicle cause or permit the vehicle to be driven on or become stationary on a footway.
45. The Driver shall not at any time when driving the vehicle cause or permit the vehicle to be stationary on double yellow lines, other than to allow passengers to board or alight from the vehicle.
46. The Driver shall not at any time when driving the vehicle cause or permit the vehicle to be stationary on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight from the vehicle.
47. The Driver shall not travel on any restricted road within the Ashfield District boundary, unless he or she is either carrying a passenger, or travelling to collect a passenger, and such a restriction does not apply to the road when the Driver is carrying or travelling to collect a passenger.
48. The Driver shall not at any time when driving the vehicle cause or permit the vehicle to make any illegal manoeuvre, and/or cause any hazard, obstruction or inconvenience so as to contravene any traffic laws, regulations, orders or guidance outlined in the current Highway Code.
49. The Driver shall not drive a vehicle while having use of illegal drugs or misused legal drugs (including alcohol).
50. The Driver shall notify the Licensing Officer in writing, within 14 days, of any change in his or her details that have occurred since the most recent application made to the Licensing Officer (i.e. home address, telephone number, etc), and pay the appropriate fee for his/her record to be amended accordingly.
51. The Driver shall notify the Council in writing as soon as possible and in any event within 14 days of any illness or injury affecting his fitness to act as a driver, and if requested by an Authorised Officer must agree to a Medical Examination being carried out to ensure such illness / injury would not give rise to concerns for public safety.
52. The Driver shall notify the Council in advance, in writing, if he or she is to be away from the address shown on the licence (and recorded as the home address on the records of the Licensing Authority) for a period of more than 28 days.
53. The Driver shall declare all relevant motoring endorsements, and all offences, cautions and convictions on any application to renew the licence. No caution or conviction should be omitted from any application.
54. The Driver shall, if subject of any formal Police action including if arrested, released on Police Bail, charged with an offence, convicted of an offence, summonsed for an offence, reported for an offence or received a fixed penalty notice for an offence (including motoring endorsements) or accepts a caution, he

or she must (within 48 hours of the action) give full details of it to the Council in writing.

- 55.** The Driver shall not willfully obstruct any Authorised Officer, or fail to comply with any requirement made by such a person without reasonable cause, or fail to give any such person any other assistance or information such person may reasonably require in the performance of his or her duties.
- 56.** The Driver shall not whilst driving or in charge of a Private Hire Vehicle ply for hire or otherwise tout or solicit on a road or other public place any person to hire or be carried in any Private Hire vehicle; or permit any other person to do so.
- 57.** The Driver shall not whilst driving or in charge of a Hackney Carriage Vehicle when outside of the Ashfield District Council area ply for hire or otherwise tout or solicit on a road or other public place any person to hire or be carried in any Hackney Carriage Vehicle; or permit any other person to do so.
- 58.** The Driver shall not whilst driving or in charge of a Private Hire Vehicle offer the vehicle for immediate hire whilst the driver is on a road or other public place except where such an offer is first communicated from the Private Hire Operator to the driver by telephone, radio, or other such apparatus fitted to the vehicle.
- 59.** The Driver shall not whilst driving or in charge of a Hackney Carriage Vehicle when outside of the Ashfield District Council area offer the vehicle for immediate hire whilst the driver is on a road or other public place except where such an offer is first communicated from the Private Hire Operator to the driver by telephone, radio, or other such apparatus fitted to the vehicle.
- 60.** The Driver shall not whilst driving or in charge of a Private Hire Vehicle park in a “prominent position” (i.e. where people are likely to congregate, locations with a high level of footfall, near a taxi rank), and be in attendance of the vehicle without a booking having been made for him or her to be at such a location, that may encourage any person to approach the vehicle in the belief that the driver and the vehicle are available for immediate public hire.
- 61.** The Driver shall when driving a Hackney Carriage or Private Hire Vehicle outside of the Ashfield District Council area not park on any rank in any other Council area, nor park in a “prominent position” (i.e. where people are likely to congregate, locations with a high level of footfall, near a taxi rank), and be in attendance of the vehicle without a booking having been made for him or her to be at such a location, that may encourage any person to approach the vehicle in the belief that the driver and the vehicle are available for immediate public hire.
- 62.** The Driver shall not whilst driving or in charge of a Private Hire Vehicle, contact the Private Hire Operator to request a booking be made on behalf of any person.
- 63.** The Driver shall not whilst driving or in charge of a Hackney Carriage Vehicle whilst travelling outside of the Ashfield District Council area, contact the Private Hire Operator to request a booking be made on behalf of any person.
- 64.** The Driver shall not whilst driving or in charge of a Private Hire Vehicle park on any taxi rank whether within or outside of the Ashfield District Council area.

65. The Driver shall not whilst driving or in charge of a Hackney Carriage Vehicle park on any taxi rank outside of the Ashfield District Council area.
66. The Driver of a vehicle equipped with a taximeter shall ensure that the table of fares (whether that be the Hackney Carriage Statement of Fares & Charges as issued by Ashfield District Council, or the Table of Fares as issued by the Private Hire Operator) is displayed in a clearly visible position in the vehicle, provide an explanation of the table of fares if so requested by the passenger, and made available upon request to any Authorised Officer.
67. The Driver shall when driving a vehicle equipped with a taxi-meter ensure that during any hiring the face of the taxi-meter is at all times plainly visible to the passengers.
68. The Driver shall when driving a vehicle equipped with a taxi-meter set the meter into operation when the hirer starts her or his journey unless the hirer asks the hiring to engage the vehicle by time, or at the time pre-arranged for the journey to start as requested by the hirer.
69. The Driver shall if the vehicle is involved in an accident, inform the vehicle proprietor immediately, in order that the vehicle proprietor may contact the Licensing Officer within 72 hours of the incident occurring.
70. The Driver shall if the vehicle is involved in an accident, and is requested to do so, give his or her name and address and any other reasonable details, and the vehicle proprietors name and address, details of the vehicle insurance, and the licence number and registration number of the vehicle to any injured party or Authorised Officer.
71. The Driver shall when driving a Hackney Carriage to a taxi rank and finding that the taxi rank is occupied by the full number of Carriages authorised to do so, proceed to another stand, and not park on or near a taxi rank that is full.
72. The Driver shall when driving a Hackney Carriage on arriving at a rank that is not fully occupied station the vehicle immediately behind the last Hackney Carriage so as to face in the same direction. When the Hackney Carriage immediately in front of the vehicle being driven by the Driver moves forward, the Driver shall also move forward to allow more Hackney Carriages to join the rank.
73. The Driver shall when driving a Hackney Carriage not cause an obstruction when parked on a taxi rank and when the vehicle is the first vehicle on the rank be in constant attendance and be ready to be hired at once by any person.
74. The Driver shall when driving a Hackney Carriage not park on a rank in the Ashfield District for any purpose other than for standing for hire.
75. The Driver of a Hackney Carriage when hailed by a customer within the Ashfield District Council area or when approached whilst waiting on an Ashfield District Council taxi rank, must, unless he or she has reasonable excuse, accept any hiring within the Ashfield District boundary if the destination is also within the Ashfield District boundary. The fare for such a journey, will be calculated by the taxi meter,

and the scale of charges applicable to journeys within the Ashfield District Council area shall apply.

- 76.** The Driver of a Hackney Carriage when hailed by a customer within the Ashfield District Council area or when approached whilst waiting on an Ashfield District Council taxi rank, does not have to accept journeys that end outside of the Ashfield District boundary; the fare or rate of fare must be by agreement between the hirer and Driver before the journey commences. Where no such agreement exists, and the journey is undertaken, the scale of charges applicable to journeys within the Ashfield District Council area shall apply.
- 77.** The Driver shall carry a copy of these conditions within the vehicle and make them available for inspection by the hirer or any passenger, or Authorised Officer upon request, and be familiar with the conditions of the Hackney Carriage & Private Hire (Dual) Driver licence, and of the Enforcement Procedures as detailed in the Councils Policy on the Relevance of Warnings, Offences, Cautions and Convictions.
- 78.** The Driver shall enroll with the Disclosure and Barring Services (DBS) Update Service and maintain any necessary agreements and arrangements with that Service so as to ensure that the Licensing Authority (should it have a reasonable requirement to do so) may access the licence holders DBS record in order to promote the objectives of public safety and safeguarding, and to prevent delay in the determination of the renewal of the licence.

Appendix F

Hackney Carriages and Private Hire Vehicles:

Application Procedure

Applications for vehicle licences will only be accepted in relation to vehicles that comply with:

1. Ashfield District Council's specification for Private Hire vehicles, or Hackney Carriages (as appropriate).
2. In making an application for a vehicle licence, applicants must submit the following for the application to be considered valid:
 - The completed Vehicle Licence Application form
 - A valid Certificate of Motor Insurance (that covers the nature of the work the vehicle will be used for) or Insurance Cover Note for the vehicle.
 - The Vehicle Registration Document (Log Book/V5) certificate of registration for the vehicle; or a Bill of Sale (pending this). Please note, the new keeper's supplement section of the V5 document will only be accepted in the case of vehicles that are not licensed at the time that the application is made, and the vehicle has recently been purchased by the applicant (the bill of sale will need to demonstrate this).
 - A current MOT certificate (or an AFRL Certificate for brand new vehicles)
 - A Certificate of Compliance* (carried out no more than 28 days earlier than when the appointment for the licence takes place)
 - An HPI Certificate for new and replacement vehicles (as vehicles subject to a category A, B, C and D write off will not be considered for a licence).
 - Any vehicle not manufactured with European Whole Vehicle Type Approval will be required to undergo Single Vehicle Approval (SVA) testing. Evidence of that testing and the vehicle having obtained SVA must be produced to the licensing office on application before the vehicle can be licensed.
 - The appropriate fee (or receipt evidencing that the full fee has been paid).

The Certificate of Compliance Test inspection will include an assessment of the vehicle's mechanical and aesthetic condition, and will exceed the MOT standards set by the Driver and Vehicle Standards Agency.

This inspection will include an assessment of the vehicle's mechanical and aesthetic condition, and will exceed the MOT standards set by the Driver and Vehicle Standards Agency. The inspection is intended to assess the vehicle for licensing suitability. The council will not issue an MOT certificate for the vehicle that will be the responsibility of the applicant to obtain at his own cost.

The person presenting the vehicle for inspection must submit to the vehicle inspector all necessary documents before the start of the vehicle examination.

A Vehicle Inspection Checklist sheet will be issued identifying if the vehicle passed or failed, and if it has failed, the reasons for the failure.

Appendix G

Hackney Carriages & Private Hire Vehicles: Conditions of Licence

Hackney Carriage and Private Hire Vehicle licences are issued subject to the following conditions. You are advised to study these carefully and you are warned that for non-compliance with any **one** condition, the licence may be revoked or suspended. Hackney Carriage and Private Hire Vehicle Licences are issued subject to the following conditions. You are advised to study these carefully and you are warned that for non-compliance with any **one** condition, the licence may be revoked or suspended.

1. The vehicle licence shall be valid for a period of one year and shall be renewable on the anniversary of the original licence until the vehicle is either replaced or reaches the upper age limit.
2. a) The Proprietor of a licensed vehicle shall not cause or allow the vehicle to be used unless:
 - The Driver of the vehicle holds a Hackney Carriage & Private Hire (Dual) Driver Licence issued by Ashfield District Council, and is insured by the proprietor, to drive the vehicle.
 - The number of the vehicle licence is fixed and displayed on the vehicle at all times during which the vehicle is licensed, by means of the Licence Plate issued by the Council to the Proprietor.
 - The Licence Plate is fixed and displayed outside on the rear of the vehicle with the particulars thereon facing outwards, in such a position that the vehicle's registration mark is not obscured, and in such a way as the Plate can be easily removed. The Plate must not be fixed to the vehicle with any form of adhesive, nor within the rear windscreen area of the vehicle.
 - The Licence Plate is clearly visible in daylight from the road at the rear of the vehicle.
- b) The Licence Plate referred to in these Conditions shall remain the property of the Council and shall be returned forthwith to the Licensing Team, Ashfield District Council, Urban Road, Kirkby-in-Ashfield, Nottinghamshire, NG17 8DA, if the Proprietor no longer holds a vehicle licence issued by the Council which is in force in respect of the vehicle.
- c) The Proprietor of a licensed vehicle shall report the loss of any plate or licence to the Police and Licensing Team as soon as such loss becomes known. The Licensing Team must also be advised of the Crime Number issued by the Police.
- d) A replacement plate (and bracket) is obtainable on payment of a fee.
- e) A fee is charged for duplicate paper licences.

3. a) The Proprietor shall ensure that vehicles are maintained in a good mechanical and structural condition at all times and be capable of satisfying the Council's mechanical and structural inspection at any time whilst the vehicles are licensed with this Authority.
 - b) The vehicle must be a single uniform colour.
 - c) The interior and exterior of the vehicle shall be kept in a clean condition and maintained in a safe condition by the Proprietor.
 - d) The Proprietor of a licensed vehicle must not cause or permit the vehicle to be used unless it complies with the Council's vehicle specification and the conditions attached to the licence.
4. a) The Proprietor shall permit an Authorised Officer or any Police Constable to inspect the vehicle at all reasonable times.
 - b) The Proprietor shall present the vehicle for inspection and testing, by an Authorised Officer, at any time and place within the District of Ashfield as specified in a notice, provided that the Council shall not under the provisions of this condition require the Proprietor to present the vehicle for inspection and testing on more than three separate occasions during any period of twelve months.
 - c) If, upon completion of the inspection, the Authorised Officer or Police Constable is not satisfied as to the condition of the vehicle for use as a hire vehicle, the Proprietor shall be asked to remove and surrender the Licence Plate from the vehicle. This will be kept by the Authorised Officer or Police Constable until such time as the condition of the vehicle is satisfactory, when it will then be returned to the Proprietor.
5. All accidents must be reported to the Licensing Team, in writing, within 72 hours of the accident occurring. Such a responsibility is that of the **Vehicle Licence Holder** and **the Driver of the vehicle** at the time of the accident.
6. The proprietor of a Hackney Carriage or Private Hire Vehicle, in the event that following an accident, he or she does not believe that the vehicle requires taking out of service / replacing, and who wishes to continue to use the vehicle as a licensed Hackney Carriage or Private Hire Vehicle shall make the vehicle available to the Licensing Officer, who will inspect the vehicle and decide whether the vehicle is fit to continue in service.

If the Authorised Officer considers the damage to be such that the vehicle may continue in service until such time as a permanent repair is undertaken these must be undertaken within 28 days of the damage occurring and a letter authorising the use of the vehicle for a maximum period of 28 days will be issued by the Licensing Officer and shall be retained within the vehicle during the permitted period.

If any damage is considered by the Licensing Officer to be extensive enough to affect the safety or general appearance of the vehicle it must be immediately withdrawn from service and the plate removed.

The vehicle must be repaired before the plate is re-affixed and the vehicle returned to service.

In the case of any dispute as to fitness for service the vehicle will be taken to the Council nominated testing station where a qualified mechanic will give a binding decision, which will be final. The owner will pay the fee for such examination.

7. a) Hackney Carriage Vehicle must have an illuminated sign on the roof of the vehicle bearing the word "TAXI" on the front and Ashfield District Council on the rear, unless a sign is manufactured into the body work of the vehicle, in which case Ashfield District Council must be displayed on the rear of the vehicle.
 - b) A Private Hire Vehicle must display signs on the front doors of the vehicle identifying the Private Hire Firm, giving the name and telephone number and / or other means of electronic communication. There must also be a sign indicating that the vehicle must be pre-booked. (i.e. 'Advanced Booking Only')
 - c) A Private Hire Vehicle must **not** display any sign or notice:
 - which consists of or includes the words 'TAXI', 'TAX' or 'CAB' whether in the singular or plural or as part of another word; or
 - which consists of the words 'FOR HIRE'; or
 - Where the form of wording is in any such way as to suggest that the vehicle on which it is displayed is presently available to pick up any passengers wishing to hire it or would be so available if not already hired.
8. a) General advertising is permitted on the rear door panels and rear screen of all licensed vehicles. This is in addition to the advertising of the company name and telephone number that is permitted on the front door panels of the licensed vehicle.
 - b) All proposed advertisements must be submitted to the Licensing Team for consideration.
 - c) Each advertisement will be considered on its merit and the Licensing Team will make their decision known to the applicant in writing, within 14 days.
 - d) All advertisements must be approved in writing **prior** to affixing it to the hire vehicle.
 - e) Advertisements must comply with the guidelines issued by the Advertising Standards Agency.
 - f) Advertisements of the following nature will not be permitted: Alcohol products, Tobacco products, Religious references, Political references, Controversial references.
 - g) All advertisements must be in good taste.
 - h) Advertisements must be in a material that cannot be easily soiled and that can be firmly attached to the interior or exterior of the vehicle, as appropriate.

- i) The material used in the rear screen of the hire vehicle must not inhibit in any way the view through the rear screen.
 - j) All advertising mediums must be kept in a clean and good condition.
 - k) Any advertising that has become damaged, is peeling or has been defaced in any way must be removed from the hire vehicle immediately.
 - l) Where an advertisement has been refused there is a right of appeal to the Service Director and /or Licensing Committee.
9. a) The Hackney Carriage and Private Hire vehicle must not be used to carry a greater number of passengers than the number prescribed in the licence.
- b) When the Hackney Carriage or Private Hire vehicle is used to carry children, the following requirements shall be adhered to:
- All passengers aged 12 years or more, or whose height is 135cm or more, wear a seat belt throughout the duration of the journey; and
 - For children aged under 12 years of age, or whose height is less than 135cm, that:
 - Children under 3 years of age, if carried in the front seat, are seated in the appropriate child car seat;
 - Children under 3 years of age, if carried in the rear seats, are secured by way of the appropriate child restraint;
 - Children under 3 years of age, if no child car seat is available, may travel unrestrained on the rear seats;
 - Children aged 3 years or more but under 12 years of age or up to 135cm tall, if carried in the front seat, are secured by way of the appropriate child restraint or seatbelt;
 - Children aged 3 years or more but under 12 years of age or up to 135cm tall, if carried in the rear seats, are secured by way of the appropriate restraints or seatbelts.
- c) Wheelchair Access Vehicles have space(s) reserved for the carrying of wheelchairs. The restraining mechanisms are designed purposely for the restraint of wheelchairs only. Pushchairs **MUST** be folded and secured in the luggage compartment of the vehicle, infants should be safely restrained in a passenger seat in compliance with the seat belt regulations. Infants **MUST NOT** be transported in a pushchair.
- d) Only items belonging to passengers may be carried in the luggage space of the vehicle, except a fire extinguisher and first aid kit (i.e. no cleaning products, oils etc. belonging to the vehicle or driver may be carried).
- e) Animals belonging to the Proprietor or the driver must not be allowed to ride in the vehicle when the vehicle is working. Any animal of the hirer is to be conveyed in the rear of the vehicle **with the exception of** guide or assistance dogs which will remain with the hirer at all times (even if they are in the front) and which must be carried free of charge.
10. a) The Proprietor of a licensed Hackney Carriage or Private Hire Vehicle in which a taximeter is installed shall not cause or permit the vehicle to be used

unless the taximeter is so constructed, attached to the vehicle and maintained as to comply with the following requirements:

- The taximeter is fitted with a key or other device, so that the taximeter can be switched on and the word "hired" will appear;
 - Such key or device shall be capable of being locked so that the taximeter can be switched off and no fare recorded;
 - When the taximeter is in operation, the fare shall be recorded in figures clearly legible and free from ambiguity.
 - The Hackney Carriage fare shall not exceed the rate of fares set by the Council;
 - The taximeter shall be placed so that all letters and figures on its face can be seen by passengers in the vehicle and for that purpose, the letters and figures shall be capable of being suitably illuminated during any period of hiring.
- b) The Proprietor of a licensed **Hackney Carriage** must not allow the vehicle to be used unless the table of fares fixed by this Council is displayed clearly inside the vehicle. Where other fares are programmed into the meter there must also be a table of fares displayed for the additional fares.
- c) The Proprietor of a licensed **Private Hire Vehicle** in which a taximeter is installed must not allow the vehicle to be used unless there is on display the table of fares fixed by him which he proposes to charge.
11. a) If the proprietor wishes to surrender the licence at any time, he or she must do so by way of written confirmation to the Licensing Team, and the vehicle licence and licence plate be returned to the Licensing Team within 7 days of the notification of surrender.
- b) Should the vehicle be sold or transferred in any other way, to continue as a licensed vehicle within the period of the licence, the vehicle licence holder shall notify the Licensing Team in writing of such a matter within 7 days of the date that he or she sold or transferred the ownership of the vehicle.
- c) Should the vehicle be sold or transferred in any other way, to continue as a licensed vehicle within the period of the licence, the new proprietor shall also be provided with the following:
- A signed letter stating:
 - The make / model / colour / registration number / vehicle licence number
 - The date of sale
 - To whom the vehicle was sold
 - A bill of sale for the vehicle
 - A valid Certificate of Compliance
 - A valid M.O.T. Certificate
 - The current vehicle licence
- d) Should the vehicle be sold or transferred in any other way, to continue as a licensed vehicle, the new proprietor shall arrange for an appointment with the Licensing Team in order to carry out the "transfer of ownership" of the vehicle licence, and submit to the Licensing Team his / her application and the documents referred to at c) above.

- e) The Proprietor of a licensed vehicle shall produce the vehicle licence for inspection, at the request of any Police Constable.
- f) The Proprietor of a licensed vehicle shall ensure that copies of the following documents are kept in the vehicle at all times whilst it carries out licensable duties, and that all Drivers are aware of the documents are located, should they be asked to produce it to an Authorised Officer:
- Vehicle Log Book
 - Valid Certificate of Compliance
 - Valid M.O.T. Certificate
 - Valid Certificate of Insurance

And the Proprietor shall produce the following original documents at the request of an Authorised Officer of the Council (either forthwith or at the main Council Officers, within five days (including weekends) of the request being made):

- Current DVLA Driving Licence;
 - Vehicle Log Book
 - Valid Certificate of Compliance
 - Valid M.O.T. Certificate
 - Valid Certificate of Insurance
- g) At all times the proprietor of a licensed vehicle must keep in force in relation to the use of the vehicle, a Policy of Insurance complying with the requirements of Part VI of the Road Traffic Act 1988.
- h) Any change of vehicle on insurance must be notified to the Council on or before the change takes place.
- i) On changing address the Proprietor of a licensed vehicle shall return the licence, for amendment, to the Licensing Team within 14 days of the change, together with the appropriate fee.
- j) The licence shall be returned to the Licensing Team upon expiry, revocation or suspension, within 7 days.
- k) The Proprietor of a licensed vehicle shall maintain a list of names and addresses of all drivers of the vehicle, and maintain a record that provides information as to which driver has use of the vehicle at all times, and produce this information to the Licensing Team on request.
- l) Where the vehicle is licensed as a Private Hire Vehicle or Hackney Carriage with another Authority during the period of this licence, the Licensing Team must be notified and the licence with this Authority may be subject to revocation.
- 12. a)** The Proprietor of a licensed vehicle who has agreed, undertaken, or has been hired to be in attendance with the vehicle at an appointed time and place shall, unless prevented because of some unavoidable reason, cause the vehicle to attend at such appointed time and place.

- b) Only Ashfield Licensed Hackney Carriages may stand on a Taxi Rank or ply for hire within Ashfield District.
 - c) Private Hire Vehicles may not ply for hire or stand on a taxi rank for any reason which includes the picking up or dropping off passengers.
 - d) All bookings for Private Hire Vehicles must be made in advance.
 - e) All Private Hire Vehicles must display door signs that state all bookings must be made in advance, i.e. '**ADVANCE BOOKINGS ONLY**'.
- 13.** The Proprietor shall ensure that any radio equipment fitted to the licensed vehicle is at all times kept in a safe and sound condition and maintained in proper working order.
- 14.** The Proprietor of a licensed vehicle shall ensure that:
- a. There is no smoking (including the smoking of electronic cigarettes) within the vehicle at all times. This applies to both drivers and passengers; and
 - b. No smoking signs are displayed within the vehicle.
- 15.** The Proprietor of a Hackney Carriage and Private Hire Vehicle shall, within fourteen days of any offence, caution or conviction, disclose to the Council, in writing, details of the offence, caution or conviction and any penalties imposed on him during the term of his licence.
- 16.** The proprietor of a licensed vehicle shall within 7 days of any request made by an Authorised Officer, make available any records or other information that would reasonably assist with an investigation.
- 17.** The proprietor of a licensed vehicle shall not wilfully obstruct an Authorised Officer, or without reasonable excuse fail to comply with any requirement made by such a person, or without reasonable cause, fail to give any such person any other assistance or information such person may reasonably require in the performance of his or her duties.
- 18.** The proprietor of a Hackney Carriage or Private Hire vehicle shall provide the Private Hire Operator to whom he or she supplies the vehicle to undertake journeys with a copy of his or her Vehicle Licence during the period that the vehicle is utilised so.
- 19.** The proprietor of a Hackney Carriage or Private Hire vehicle shall notify the Council in advance, in writing, if he or she is to be away from the address shown of the licence, for a period of more than 28 days.
- 20.** The proprietor of a Hackney Carriage or Private Hire vehicle shall ensure that a copy of these conditions are retained within the vehicle and made available for inspection by the hirer or any passenger, or Authorised Officer upon request.

Appendix H

Supplementary Vehicle Testing Manual

INDEX

Section 1	-	Vehicle Exterior
Section 2	-	Hackney Carriage and Private Hire Vehicle Signs
Section 3	-	Licence Plates
Section 4	-	Tyres and Spare Wheels
Section 5	-	Boot/Luggage Compartment
Section 6	-	Engine Compartment/Transmission/Mountings
Section 7	-	Interior of Vehicles
Section 8	-	Wheelchair Accessible Vehicle
Section 9	-	Meters
Section 10	-	Trailers

EXTERIOR OF THE VEHICLE

METHOD OF INSPECTION	REASONS FOR FAILURE	NOTES
1.1 The exterior of the bodywork, the underside of the vehicle and the engine compartment must be free from mud, oil and grease to allow for proper inspection of these areas (see Notes.), i.e. steam cleaned.	1. Contamination preventing proper inspection.	If the vehicle comes for annual inspection in a filthy condition the inspection will not be carried out.
1.2 Check the operation of all external door catches and locks to ensure that all doors can be securely closed and easily opened.	2. Defective external catches which prevent a door opening and closing properly. Missing or ineffective door locks.	
1.3 Check all doors to ensure that they are properly aligned and will close easily	3. Poorly fitting doors to the vehicles.	
1.4 Ensure that the door hinges are in good condition allowing free movement of the door.	4. Defective door hinges.	
1.5 Check all wind-check positions to ensure that doors are held in place when opened.	5. Wind-checks which fail to hold the doors in place when opened.	Any wind check straps must be of a type approved by the manufacturer.
1.6 Examine the external body panels and structure for evidence of corrosion, damage and/or unsatisfactory repairs.	6. Corrosion or damage to the vehicle body or structure which adversely affects the appearance and/or safety of the vehicle.	Engineer's certification may be required to satisfy the vehicle examiner that repairs have been properly carried out.
1.7 Examine the external paintwork for damage which adversely affects the appearance of the vehicle (see Notes).	7. Exterior of vehicle so dirty that the overall finish of the paintwork cannot be assessed. Paintwork so deteriorated, damaged, rust blistered or stone chipped, that it detracts from the overall appearance of the vehicles. Renovations to paintwork which produce runs, flat or uneven finish or of non-matching colour, i.e. not compatible with adjacent panels. Repairs incomplete in primer or undercoat.	

EXTERIOR OF THE VEHICLE Cont'd

METHOD OF INSPECTION	REASONS FOR FAILURE	NOTES
1.7 (Cont'd).	<p>Vehicle resprayed in unapproved colour or colours.</p> <p>Overspray on glass or other fittings.</p> <p>Vinyl roof covering dirty, stained, discoloured, painted (other than with vinyl refurbishment product), torn or becoming detached. Roof covered in unapproved material. Finisher moulding insecure, incorrectly fitted or missing.</p>	<p>Private Hire Vehicles should be one solid colour.</p> <p>Hackney Carriages must be one solid colour</p>
1.8 Check that the nearside and offside door/wing mirrors are fitted to the vehicle in a secure manner and that they function correctly.	8. Missing or defective door/wing mirrors.	
1.9 Ensure that the front and rear bumpers are in good order (without damage) and are securely fixed to the vehicle.	9. Damaged or inadequately secured front or rear bumpers.	
1.10 Ensure that front and rear number plates comply with the Vehicle Excise and Registration Act 1994 and the Road Vehicles (Registration and Licensing) Regulations. (See Notes.)	10. Damaged front or rear number plates. Number plates which do not comply with the vehicle Excise and Registration Act 1994 and Road Vehicles (Registration and Licensing) Regulations.	<p>Registration mark obscured or indistinguishable is contrary to Section 43(1) of vehicle excise and Registration Act 1994.1</p> <p>Registration mark failing to conform is contrary to regulation 17 of Road Vehicles (Registration and Licensing) regulations and section 59(1) of the Vehicle Excise and Registration Act 1994.</p>

EXTERIOR OF THE VEHICLE Cont'd

METHOD OF INSPECTION

REASONS FOR FAILURE

NOTES

1.10 (Cont'd)

Registration numbers should be (cars/mini bus):

80mm Height

57mm Width

14mm Stroke width

11mm Space between letters

33mm Space between group of letters and figures

The year letter shall be regarded as a figure.

Italic or gothic will normally contravene the stroke width measurement. It is an offence to rearrange, alter or misrepresent figures to form words or names.

1.11 Examine the rubber seals to every door for serious damage, looseness or absence.

11. Damaged, missing or loose door seals which are likely to cause draught, rainwater penetration, unreasonable road noise or a trip hazard.

The vehicle will fail the test where defects in a door seal are considered to be likely to cause rain penetration, excessive draught, excessive road noise inside the vehicle or represent a trip hazard to users of the vehicle.

1.12 Ensure that the vehicle boot lid opens, closes and locks properly, and that the hinges and opening mechanism adequately support the lid when it is in the open position.

12. Worn hinges to boot lid, defective boot lock, weak or defective boot opening device.

1.13 Check the operation of the number plate light, reversing lights and front and rear fog lights.

13. Inoperable or insufficient number plate, reversing or fog lights.

Lights may be of insufficient intensity when incorrect bulbs have been fitted.

Any lamp fitted must work correctly and be properly aligned.

1.14 Check condition of any advertising material affixed to the exterior of the vehicle.

14. Damaged, peeling or defaced advertising material.

Unauthorised advertising material.

- 1.15 Tinted windows will only be permitted in accordance with the manufacturers or specialist coachbuilder's specification and must comply with the Road Vehicles (Construction & Use) Regulations ,1986.

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2. SIGNS – HACKNEY CARRIAGE SIGNS

METHOD OF INSPECTION

- 2.1 Examine the roof mounted sign affixed to the vehicle (see Notes), and ensure that its size, design and construction conform to the Council's standards. Ensure that the sign is undamaged and the lettering clearly legible.
- 2.2 Examine the fixing brackets which affix the roof mounted signs to the vehicle to ensure that the signs are secured in a satisfactory manner and are not likely to work loose.
- 2.3 Check that roof mounted signs are properly illuminated (see Notes).
- 2.4 Check that the roof mounted sign may be switched off by separate switch.

REASONS FOR FAILURE

1. A sign that does not conform to the Council's standards affixed to the vehicle.
2. A sign that is not satisfactorily secured to the vehicle.
3. A sign which is damaged or has lettering which is not clearly legible.
4. A sign which cannot be switched off by separate means.

NOTES

The Council's licence conditions require:- that a Hackney Carriage must be equipped with an illuminated sign on the roof of the vehicle bearing the word "TAXI" on the front and ASHFIELD DISTRICT COUNCIL on the rear as approved by the Council. Purpose built vehicles already displaying the word TAXI in the allotted space will not require an additional top sign.

(If top signs are to be replaced they should conform to the above, however existing top signs will be accepted until that time).

The roof sign should be connected to the meter switch so that the cancelling of the meter automatically illuminates the sign and activating or switching off of the meter by other means (e.g. an isolator switch) automatically extinguishes the sign.

2. SIGNS – PRIVATE HIRE VEHICLE SIGNS

METHOD OF INSPECTION

REASONS FOR FAILURE

NOTES

2.5 Examine the signs where affixed to the vehicle to ensure that they comply with the Council's vehicle licence conditions.

5. Non-compliance with conditions.

The Council's licence conditions require:- No top signs are allowed on Private Hire Vehicles. No signs including the words, 'Taxi, 'Cab, 'for hire' etc. are allowed on private hire vehicle which may lead the public to think that the vehicle is a taxi.

2. SIGNS – ADVERTISING ON HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Advertising of the company name and telephone number on the door panels of vehicles is permitted.

OTHER ADVERTISING IS PERMITTED with the approval of the Authority only. Advertising on glass surfaces will not be permitted unless approved advertising material is used.

3. LICENCE PLATES

METHOD OF INSPECTION

REASONS FOR FAILURE

NOTES

3.1 Inspect the vehicle licence plate fixed to the rear of the vehicle for signs of damage or excessive wear, and ensure that it is securely fixed. Ensure that the information on the plate is clearly legible.

1. A damaged plate or a plate with information not clearly legible.

The Council's licence conditions require:- The licence plate to be displayed at all times on the rear of the vehicle so as not to obscure the registration mark. With the particulars thereon facing outwards and in such a manner and place that the Licence Plate is clearly visible by daylight from the road at the rear of the vehicle.

3.2 Examine the plate fixing to the vehicle to ensure that it is securely fixed using bolts or screws, or in accordance with the Local Authority's Conditions. (See Notes).

2. A plate which is not adequately secured to the vehicle.

Plates should be secured to vehicle using bolts or screws, or by the fixing system adopted by the Council, but **must** be able to be removed by police officer or authorised officer of the Council.

4. TYRES AND SPARE WHEEL **(Where wheel trims are fitted these should be removed by the driver before the test to enable the wheel to be properly checked)**

METHOD OF INSPECTION	REASONS FOR FAILURE	NOTES
<p>4.1 Tyres must be of the same type. (see Notes). Ensure that the tyre provided on the spare wheel is of the same size and construction as those fitted to the road wheels (see Notes).</p> <p>If vehicle spare wheel is of the space saver type approved and supplied by the manufacturer these will be accepted. Emergency tyre inflation kits are not accepted unless supplied by vehicle manufacturer when first registered.</p>	<p>1. Variation in type of Tyre.</p> <p>No spare wheel or space saver provided with the vehicle.</p> <p>A tyre which is of a different size or construction.</p>	<p>SPARE WHEEL or space saver tyre and wheel as supplied by the manager MUST BE PROVIDED.</p> <p>Emergency Inflation kits are not accepted Emergency tyre inflation kits are not accepted unless supplied by vehicle manufacturer when first registered.</p>
<p>4.2 Examine the tyres for signs of damage or excessive wear (see Notes), ensure that the spare tyre complies with all legal requirements for tyres when fixed to the vehicle.</p>	<p>2. Damaged, worn, substandard or otherwise illegal tyres.</p> <p>Tyres below the Council's minimum tread depth (see Notes).</p>	<p>A mix of steel and cord radials on one axle will not be accepted.</p> <p>Recut tyres are not acceptable.</p> <p>Tyre tread pattern should be a minimum of 2mm in depth throughout the complete circumference and tread breadth of the tyre.</p>
<p>4.3 Check tyre pressure to ensure that it is inflated to the correct pressure for the vehicle.</p>	<p>3. Under or over inflated tyres including spare.</p>	

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| 4.4 | Examine the jack and wheel brace provided with the vehicle to ensure that they are in good working order, secured firmly in correct location provided by manufacturers. | 4. | Failure to provide a suitable jack and/or wheel brace with the vehicle. |
| 4.5 | Check the spare wheel fixing bracket (or similar securing device) to ensure that the wheel is properly secured in the correct position. | 5. | Failure to satisfactorily secure the spare wheel. |
| 4.6 | Check the rims of all wheels for any signs of distortion or damage. | 6. | A damaged or distorted wheel rim. |

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5. BOOT/LUGGAGE COMPARTMENT

METHOD OF INSPECTION	REASONS FOR FAILURE	NOTES
5.1 Examine for evidence of damage, corrosion or water penetration.	1. Any damage, corrosion or water penetration	
5.2 Examine floor covering to ensure that it is in good condition and offers adequate protection to luggage stored.	2. Excessive wear, damage or staining of floor covering.	
5.3 Examine the interior for accumulations of dirt, dust, grease, litter etc. or staining of any surface with which luggage may come into contact.	3. Accumulations of dirt, grease, rubbish etc. which could soil or damage luggage stored therein.	
5.4 Check for the presence of containers of any flammable or corrosive material (e.g. oil, petrol).	4. Containers for the storage of oil, petrol or any flammable or corrosive material shall not be carried in the vehicle.	These materials are a fire hazard. They may also contaminate passengers' luggage, taint food, etc.
5.5 Ensure that all interior panels are in position, covering electrical wiring and associated fittings.	5. Panels insecure or missing.	
5.6 No loose tools or tool boxes to be carried in the vehicle.	6. Loose tools or tool boxes carried.	

Note:

A jack, first aid kit, fire extinguisher and wheelchair ramps (where applicable) may be carried in the luggage compartment.

6. ENGINE COMPARTMENT/TRANSMISSION/MOUNTINGS

METHOD OF INSPECTION	REASONS FOR FAILURE	NOTES
6.1 Carry out a visual inspection of the engine compartment for signs of oil or fuel leaks.	1. Any fuel leakage. 2. Any oil leakage where oil contamination is apparent over parts of the engine or underside of the vehicle or where oil is seen to be dripping from the vehicle.	Inspection to be carried out from both above and below the vehicle.
6.2 Ensure that the battery is properly secured in position.	3. Insecure battery.	
6.3 Examine all rubber/plastic hoses for signs of wear or deterioration.	4. Significantly worn or deteriorated hoses.	
6.4 Check the fan belt for signs of incorrect adjustment and/or deterioration.	5. An incorrectly adjusted or deteriorated fan belt.	
6.5 Examine the engine mountings for signs of deterioration.	6. Insecure or deteriorated engine mountings.	

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| 6.6 | Ensure that the radiator is properly secured to the vehicle and check for signs of any leaks. | 7. | A leaking or inadequately secured radiator. | |
| 6.7 | Examine the inner wing panels and suspension mounting tops for evidence of corrosion (see Notes). | 8. | Corrosion to the inner wing panels and suspension mounting tops. | This should include any corrosion around headlamp mountings. |
| 6.8 | Check the master cylinders for any signs of spillage or leaking of fluid. | 9. | Leaking master cylinders. | |
| 6.9 | Check the clutch mechanisms for correct operation. | 10. | Fluid leakage or mechanical component wear in the clutch mechanisms. | |
| 6.10 | Check the operation of the bonnet release catch. | 11. | Defective bonnet release catch/mechanism. | |

7. INTERIOR OF VEHICLE

METHOD OF INSPECTION

REASONS FOR FAILURE

NOTES

7.1	Examine the floor and upholstery inside the vehicle for accumulations of dust, dirt, litter, general debris, cigarette ash, staining or excessive wear.	1. A vehicle which is in a dirty condition with accumulations of dust, litter, debris etc. or staining to the carpets or upholstery.	Vehicle will be failed if cushion/backrests, upholstery, carpeting or matting is collapsed, holed, split, temporarily repaired, dirty or stained.
7.2	Check that there are no excessive unpleasant odours noticeable inside the vehicle.	2. Unacceptable smells of vomit, food or other contaminants.	
7.3	Remove any mats from the floor and examine the carpeting for signs of leakage of water into the vehicle.	3. Evidence of leakage of water into the vehicle from rainwater penetration or leaking cooling/heating system.	
7.4	Examine any mats provided to ensure that they are not worn or damaged.		
7.5	Sit in each of the passenger seats within the vehicle to ensure that all seat cushions and back rests are in a good condition and offer proper support to passengers and the driver.		Correctly fitted seat covers will be acceptable

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| 7.6 | Examine all seats to ensure that they are properly secured to the vehicle; with a fixed rear seat ensure that the seat cushion is not loose. | 4. | Seats which are not adequately secured to the vehicle. | |
| 7.7 | Check the operation of the interior light within the vehicle, both the manual switch and the door operated switches. (see notes) | 5. | Faulty interior light fitting. Faulty interior light switch. Faulty interior light door switches. | Minibuses must be fitted with a fascia mounted warning light to indicate when doors are not properly secured. |
| 7.8 | Examine the interior rear view mirror and ensure that it is securely fixed. | 6. | A loose, damaged or missing rear view mirror. | |
| 7.9 | Check the operation of the heater/windscreen demister to ensure that it is in satisfactory working order. | 7. | Defective heater/windscreen demister. | |
| 7.10 | Examine the clutch and brake pedal rubbers for signs of excessive wear. | 8. | Worn or missing brake and/or clutch pedal rubbers. | |
| 7.11 | Check the operation of all window winders ensuring that they allow all windows to be fully lowered and raised easily. | 9. | Window winders that do not allow windows to be easily lowered or raised. | |
| 7.12 | Check the operation of all door release catches to ensure that doors can be opened easily from within the vehicle. | 10. | Defective interior door release catches. | |
| 7.13 | Ensure that child proof locks (if fitted) to rear doors are in working order. | 11. | Defective child proof locks. | |
| 7.14 | Check that any ashtrays provided for the vehicle are intact and capable of being used. (Where ashtrays have been removed they should be blanked off). | 12. | Unserviceable ashtrays or ashtrays that have not been blanked off where removed. | |

7.15 If a metal grille is fitted check to ensure that there are no sharp or exposed parts which could cause injury to a passenger or driver.

7.16 Check that estate cars are fitted with a luggage guard or cover.

13. Loose or incorrectly fitted grille or exposed parts which could cause injury.

14. Luggage guard/cover not fitted or ineffective.

The fitting of a metal grille is not compulsory.

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8. WHEELCHAIR ACCESSIBLE VEHICLES

METHOD OF INSPECTION	REASON FOR FAILURE	NOTES
8.1 Examine the Wheelchair anchorage points Inside the vehicle for security, suitability, and ease of access.	1 Unsuitability of points, insecure or worn and damaged points	Anchorage points for securing a Wheelchair must be suitable and comply to seat belt anchorage regulations. They must be easily accessible, free from built up dust and dirt and securely fixed to the floor or bodywork of the vehicle in compliance to seat belt anchorage regulations.
8.2 Check the operation of all wheelchair anchorage points.	2 Fail to securely hold any Anchorage straps in place	Any ramps or securing straps or seatbelts must be presented with the vehicle on day of inspection and must be indelibly marked or stamped with the registration mark of the vehicle. Seat belts must comply to any regulations in regard of seat belts.
8.3 Check and inspect Wheelchair ramps for operation and suitability, ensure suitability for access or egress of wheelchair in to and out of vehicle.	1. No ramps in vehicle when vehicle presented for inspection. (see notes) Ramps damaged or unsuitable for vehicle. (see notes)	
8.4 Check and inspect Wheelchair ramp securing points on the vehicle	1 Unsuitable for ramps to be securely fixed to vehicle.	

8.5 Check and inspect securing belts and
Wheelchair seat belts

2 Damaged, or corroded securing
points

1 Frayed or damaged seat belt or
securing straps (see notes)

Unsuitable seat belts or securing
straps. (see notes)

Straps or seat belts not presented
with vehicle for inspection.

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9. METERS

METHOD OF INSPECTION

REASONS FOR FAILURE

NOTES

9.1	Ensure that the meter is sited in position where it can be clearly seen from all passenger seats within the vehicle or in accordance with the Authority's licence conditions.	1. Absence of a meter, or a meter which is not suitably sited within the vehicle.	Private hire vehicles are not required to have a meter fitted within the vehicle. When fitted to a private hire vehicle a meter must comply with the specifications as set out in this sheet.
9.2	Examine the meter mounting to ensure that it is satisfactorily secured within the vehicle.	2. A meter which is not adequately secured within the vehicle.	
9.3	Check the meter to ensure that the figures indicating the fare are illuminated.	3. Lack of adequate illumination to the meter display.	
9.4	Check that a table of fares (in the format laid down by the Council), is displayed in the vehicle in a position where it can be clearly seen by passengers in the front and rear of the vehicle.	4. Failure to display a table of fares in a conspicuous position within the vehicle.	Applies to all hackney carriages and those private hire vehicles fitted with a meter (optional).
9.5	Where there are additional fares programmed into the meter these fares should be displayed alongside the Council's table of fares.		Private hire vehicles with a meter should be tested using the tariff set by the P.H. operator and the private hire operators' tariff card should be displayed in the vehicle.

10. TRAILERS

Trailers must undergo an annual inspection and trailers must comply with all the following points:-

- 10.1 The proprietor must present the trailer for inspection at the Council Depot prior to its first use and thereafter every 12 months at the inspection of any vehicle on which the trailer is authorised to be used.
- 10.2 The trailer complies with all aspects of current vehicular legislation and is of a type recommended by the vehicle manufacturer as being suitable for the intended towing vehicle.
- 10.3 The vehicle must be suitable for towing the intended trailer.
- 10.4 The trailer must be in good condition and no older than ten years of age, of which proof of age must be provided at the time of test.
- 10.5 The trailer must be purpose built and manufactured for the purpose for which it was intended.
- 10.6 The trailer must be plated by the manufacturer, specifying the maximum load to be carried.
- 10.7 The trailer must be fitted with suitable brakes which must be maintained in a satisfactory condition.
- 10.8 The trailer must comply with current vehicular lighting regulations.
- 10.9 No advertising will be permitted on any part of the trailer.
- 10.10 The trailer must be fitted with a secure fastening cover, which must be of the hard top type.
- 10.11 A spare wheel of the same type and size fitted to the trailer must be carried in a secured position on the trailer.
- 10.12 Where a licensed vehicle has its emergency exit through the rear doors, the towing of a trailer must not impede the use of those doors for the egress of passengers from the vehicle.
- 10.13 The two bar fitted to the licensed towing vehicle must be of a type approved by the manufacture of the vehicle, be to a type approved to British Standard (Kite marked) and fitted by an approved agent.

TRAILERS (Continued)

Note-

Proof of the towing vehicle being insured to tow the trailer must be produced before the inspection is carried out.

A charge will be made for the inspection of the trailer which will be payable prior to the inspection.

A licensed driver will be permitted to tow a trailer whilst driving a licensed vehicle, provided that he/she holds the appropriate category on his/her DVLA driving licence, which must be produced to the Authority.

The licence will be suspended when:-

- (a) M.O.T. Failure or
- (b) Where there are 3 or more failure items from the supplementary test manual, or at the discretion of the examiner any single item which would affect the safe carriage of passengers.
- (c) Failure of any tyre, road wheel or defective speedometer or taximeter.
(Supplementary test manual reference 4, 10 and 11)

The vehicle will be subject to retest as follows:-

- (a) M.O.T. Failure Partial retest if the vehicle is brought back to the Depot and retested before the end of the next working day on one or more of the following items: ABS warning boot lid, brake pedal antislip, direction indicators/hazard warning, doors, emissions, fuel filler cap, headlamp aim, horn, lamps loading door, mirrors, rear reflectors, registration plates, seat belts (but not anchorages), seats, sharp edges or projections, steering wheel, vin no. windscreen and wipers/washers.

Full retest will be required for all items not listed above.

- (b) Supplementary items failure – vehicle will be retested on failed items only.

N.B.

Where a vehicle has failed and the licence suspended, the vehicle must be retested before returning to work.

RETEST FEES

Retest Fee – Fees are subject to change and as such please refer to the Council’s website or annual fees and charges.

N.B.

If the vehicle is not returned for retest within one working day the Local Authority Licensing Enforcement Officer will be notified. The Authority Licensing Team will be notified of all vehicle or trailer failures.

Appendix I

Private Hire Operator: Application Procedure

Applications for Operator's licences must be made in writing (or electronically) using the approved application form. Every question on the application form must be completed fully and accurately, and the form must be signed by every applicant.

Where the application is being made by a single individual, the questions on the application form should be answered by that individual. Where the application is being made by multiple individuals (whether in a formal partnership or not), the questions should be answered jointly by the applicants.

Where a limited company is applying for a licence, the questions should be answered in respect of both the company and its directors. This is particularly relevant to the questions relating to conviction, cautions, insolvency or disqualification, where the Licensing Authority must be satisfied as to the fitness and propriety of every applicant.

In accordance with the Interpretation Act, the term 'person' may apply to both individuals and bodies corporate and un-incorporate.

Where an application is made by one or more individuals, the provisions herein shall be applied to each individual so specified in the application.

Where an application is made by a partnership or limited company, the provisions herein shall be applied to each partner or director, as the case may be, and to the company secretary.

If the application is in the name of a limited company a check of that company will be carried out through the Companies House.

Applications must be accompanied by the following things in order for it to be deemed valid:

- A signed declaration
- The relevant fee
- Public Liability Insurance
- Employers Liability Insurance (where applicable)
- Proof that the applicant is legally permitted to work in the UK –a licence will not be issued for a period longer than that period the applicant is permitted to work
- Evidence of completion and passing of the safeguarding vulnerable people course certificate;

- Basic Disclosure certificate, issued by Disclosure Scotland (or the Disclosure & Barring Service) for each applicant. This means that a certificate must be obtained and supplied in respect of the sole individual applicant, or each individual applicant where the application is made by multiple individuals, or each director of a limited company applicant. Certificates must be issued in the full name of the relevant individual, and must have been issued no earlier than 3 months before the date on which the application was made.
- Exemption - The requirement to provide a Basic Disclosure certificate will not apply to any applicant (or director) who holds a current private hire or hackney carriage driver's licence issued by Ashfield District Council. These individuals have already been assessed for their fitness and propriety during their application for that licence, and as such no further checks of any criminal record history for that particular applicant will be considered necessary. Applicants who have applied simultaneously for a driver's licence will also be exempted from the Basic Disclosure requirement, as they will be obtaining a higher level of disclosure certificate as part of that application. The operator's licence application will not be determined until any such disclosure certificates (including enhanced certificates as part of a simultaneous driver's licence application) have been received.

When all required documents and other information (including the reference checks) have been received, the application will be determined.

Where it is proposed to refuse an application at Officer level, in line with the scheme of delegation, an applicant will be given an opportunity to make representations, either in writing or orally to an officer with the appropriate delegations or at a meeting of the Council's Licensing Sub-Committee where deemed appropriate.

Any representations will be given full consideration prior to a decision being made in respect of the application.

Where an application is refused by the Licensing Authority, a licence is suspended or revoked, or the operator is aggrieved by conditions added to their licence, a right of appeal to a magistrates' court will exist within 21 days.

Details of this right will be issued with any documentation sent at the relevant time.

Appendix J

Private Hire Operator: Conditions attached to Licence

1. The Operator shall keep a record and maintain such a record at his/her premises detailing the particulars of all vehicles operated by him or her, which shall include the following:
 - the licence plate numbers;
 - the registration numbers;
 - the names and addresses of the proprietors;
 - the names and addresses of drivers;
 - the licence (badge) numbers of drivers;
 - copies of licences for all licensed vehicles and drivers; and
 - copies of insurance certificates for all licensed vehicles.

2. The Operator shall, before a hiring starts, record in a suitable book the pages of which are numbered consecutively, or by use of a suitable computer programme the following particulars:
 - a. the date and time of the booking;
 - b. the name and contact telephone number / email address (if either are available) of the hirer and, where the booking is received from another operator, the name of that operator;
 - c. the manner in which the booking was made (i.e. whether by telephone, in person, or by electronic means);
 - d. the time and place at which it is intended that the passenger shall be collected;
 - e. the destination (which may be recorded electronically at the conclusion of the journey using GPS tracking);
 - f. the time at which the driver was allocated the booking;
 - g. the registration number and licence plate number of the vehicle allocated to the booking;
 - h. the licence number of the driver who will attend the booking; and
 - i. where the booking is passed onto another operator by way of “sub-contracting”, the name and address of that operator.

3. The Operator shall keep the records referred to in the above conditions and make available for inspection on request by an authorised Officer of the Council or a Police Officer for a period of not less than 12 months. If the records are maintained by the use of a computer, the operator shall ensure that a print-out of any record kept can be provided at any time the business is in operation, on request by an authorised officer of the Council or a Police Officer for a period of not less than 12 months.

4. The Operator shall within 7 days of any request made by any Authorised Officer, make available any records or other information that would reasonably assist with an investigation. Any failure to comply with the reasonable request of the Licensing Officer will be considered relevant when assessing the suitability of the applicant to continue to hold a Private Hire Operator licence.

5. The Operator shall within 7 days of receipt, notify the Council in writing of any complaints concerning the cleanliness or condition of a vehicle, or of a complaint against a driver, in the employ of the Operator, made by any person or organisation.
6. The Operator shall not invite or accept a booking for a Licensed Vehicle, or control or arrange a journey to be undertaken by such vehicle, without first making available in writing, or giving orally, or by means of electronic communication to the person making the booking information as to the basis of charge for the hire of the vehicle.
7. The Operator shall not charge a higher price for any journey, for a person who requires "mobility assistance" than would otherwise be charged for a person without such a need for "mobility assistance" for the same journey.
8. The Operator shall not accept a booking for a vehicle to carry more passengers than the vehicle is licensed to carry.
9. The Operator shall not take any bookings requested directly by the driver of any licensed vehicle.
10. The Operator shall, when accepting a booking for a vehicle to attend at an appointed time and place, ensure that unless delayed or prevented by some sufficient cause, a suitable vehicle attends at that appointed time and place.
11. The Operator shall provide, and ensure that any vehicle in his employ that is fitted with a taxi-meter carries and displays upon request a list of the tariffs charged by the Operator.
12. The Operator shall take all necessary measures, including those requested by the Licensing Officer, Police Officer or other Authorised Officer to prevent vehicles in its employment, from parking or congregating in such a manner as to cause a nuisance to any reasonable person.
13. The Operator shall take all necessary measures, including those requested by the Licensing Officer, Police Officer or other Authorised Officer, so as to prevent drivers of Private Hire Vehicles in his or her employ from parking in a "prominent position" (i.e. where people are likely to congregate, locations with a high level of footfall, near or on taxi ranks) and being in attendance of the vehicle without a prior booking for that location having been provided to the driver, that may encourage any person to approach the vehicle in the belief that the driver and the vehicle are available for immediate hire.
14. The Operator shall take all necessary measures, including those requested by the Licensing Officer, Police Officer or other Authorised Officer, so as to prevent drivers of Hackney Carriage and / or Private Hire Vehicles in his or her employ when such vehicles are utilised outside of the Ashfield District Council area from parking in a "prominent position" (i.e. where people are likely to congregate, locations with a high level of footfall, near or on taxi ranks) and being in attendance of the vehicle without a prior booking for that location having been provided to the driver, that may encourage any person to approach the vehicle in the belief that the driver and the vehicle are available for immediate hire.

15. The Operator shall maintain an adequate supply of livery, and provide such livery upon request to the driver of a Licensed Vehicle in his or her employ should such livery be found to be absent, deteriorated or perished.
16. The Operator shall not, knowingly or without the prior written consent of the Council, engage in partnership with, or allow or suffer any involvement in the management of the Operator hereby licensed by:
 - any person who has been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976 or any other legislation relating to Private Hire and Hackney Carriage licensing; and
 - any person who, for the purposes of Part II of the said Act, has been found by any Licensing Authority not to be a fit and proper person to hold a Hackney Carriage & Private Hire (Dual) Driver Licence or Private Hire Operator Licence.
17. The Operator shall inform the Council in writing, and within 14 days of him / her having been:
 - Arrested;
 - Released on Police Bail
 - Reported for an offence
 - Summoned for an offence
 - Charged with an offence
 - Convicted of an offence
 - Summoned for an offence
 - Cautioned by a Police Officer
 - Received a County Court judgment;
 - The subject of any bankruptcy proceedings, individual voluntary arrangements and composition agreements with creditors.
18. The Operator shall be responsible for the actions of any manager, supervisor or any other person appointed to run the Private Hire Operator business on his / her behalf.
19. If provision is made by the Operator on his or her premises for the reception of members of the public proposing to hire a vehicle, the Operator shall ensure that the premises are in a clean and tidy condition at all times, and that adequate arrangements are made for the seating of customers within the premises.
20. The Operator shall not permit any person who is behaving in a manner likely to give rise to concerns regarding the safety of other members of the public, to remain upon the premises in respect of which this licence is in force.
21. The Operator shall understand that Private Hire Operator licence is not transferable.
22. The Operator shall notify the Council immediately (and in any case within 7 days) of any change in the Operator's business address, in the vehicles operated by the Operator or in the drivers employed to drive them; and make payment of any associated fee for the maintenance of the licence following such amendments being made.

- 23.** The Operator shall ensure that every driver employed to drive the vehicles operated by the Operator holds a Hackney Carriage & Private Hire (Dual) Driver Licence and is acquainted with the conditions attached to such a driver licence.
- 24.** The Operator shall ensure that the holder of any Hackney Carriage Vehicle Licence or Private Hire Vehicle Licence relating to a licensed vehicle operating under his / her Operator licence is acquainted with the conditions attached to such a vehicle licence.
- 25.** The Operator shall maintain a register of all staff whose work consists of taking bookings and dispatching vehicles, and that such staff provide the Operator with a Basic DBS Disclosure; and that such checks are reviewed annually, and prior to a new employee commencing work. The register shall be made available to an Authorised Officer upon request.
- 26.** The Operator shall implement and maintain a Policy relating to the employment of ex-offenders that may work for the Operator or undertake work on behalf of the Operator. The Policy shall be made available to an Authorised Officer upon request.
- 27.** The Operator shall ensure that his / her company maintains a Safeguarding Policy that addresses the needs of the protection of children and vulnerable adults for whom the Operator provides transport services.
- 28.** The Operator shall seek and be able to evidence that any other Operator to whom he / she sub-contracts bookings, has necessary comparable protections in place for the safeguarding of children and vulnerable adults.

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