

Havant

BOROUGH COUNCIL

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

Drivers, Vehicles and Operators

Date of Adoption: [\[date\]](#)

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1. Introduction

- 1.1. The purpose of this Policy is to set out how the Council as a Licensing Authority intends to carry out the licensing and control of the hackney carriage and private hire trades within the Borough. In this Policy reference to the Council and the Licensing Authority is one and the same.
- 1.2. The Council has a responsibility to ensure all operators and drivers are fit and proper to hold licences, and vehicles are safe to operate. Conditions, which are attached and form part of this Policy, will apply to licences to ensure public safety is protected.
- 1.3. This Policy provides guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:
 - Applicants for drivers' licences, vehicle licences and operator's licences;
 - Existing licensed drivers, vehicle proprietors and operators;
 - Licensing Officers;
 - Members of the Licensing Committee; and
 - Magistrates and Crown Court hearing appeals against local authority decisions.
- 1.4. The Policy has immediate effect and will be applied to existing licences and new applications received after the date that the Policy is adopted by the Council. The Council reserves the right to overturn a decision that has been made under a previous Policy, or refuse the renewal of a licence where appropriate
- 1.5. The Licensing Authority reserves the right to depart from this Policy if there are, in its reasonable opinion, exceptional or compelling reasons to do so. In addition, the Council may follow any current or subsequent recommendations made by the Institute of Licensing, the Department for Transport or any other national guidance issued.

2. Aims and Objectives of the Policy

- 2.1. The principle purpose of the hackney carriage and private hire licensing regime is to protect the public and promote public safety.
- 2.2. The primary aim of the Policy is to promote the following:
 - The protection of the public, including safeguarding children and vulnerable people;
 - Public confidence in the hackney carriage and private hire services;
 - A professional and competent hackney carriage and private hire trade;
 - The safety and health of the public and drivers;
 - Vehicle safety, access and comfort;
 - Encouraging environmental sustainability and improving air quality.
- 2.3. The following legislation allows the Licensing Authority to fulfil its aim:
 - Section 37 of the Town Police Clauses Act 1847
 - Section 45 of the Local Government (Miscellaneous Provisions) Act 1976
- 2.4. In addition, byelaws which apply to Havant Borough Council have been made under Section 68 of the Town Police Clauses Act 1847, Section 65(7) of the Local Government (Miscellaneous Provisions) Act 1976 and Section 171 of the Public Health Act 1875.

Consultation

- 2.5. It is the Council's policy to consult with all interested parties before making decisions on matters referred to in this Policy. These include the Police, the Highways Authority, representatives of the hackney carriage and private hire trade, and others thought appropriate. These may include groups representing disabled people, the Chambers of Commerce, Organisations with a wider transport interest and special interest groups.

Review

- 2.6. This Policy will be reviewed every five years or sooner if there are relevant legislative changes or significant issues arise in the area.

Information sharing

- 2.7. The Council may use the information submitted on any application form for any licence(s) for the purpose of its statutory function(s).
- 2.8. The Council is under a duty to protect the public funds it administers, and to this end may use the information provided for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.
- 2.9. The Council may provide information submitted on any application form for a licence or permission to other statutory Authorities, such as Her

Majesty's Revenue and Customs (HMRC), The Audit Commission, Home Office and Law Enforcement Agencies.

- 2.10. The Licensing Authority provides information to the National Register of Taxi and Private Hire Vehicle Revocations, Refusals and Suspensions (NR3S) which is part of the National Anti-Fraud Network (NAFN). The Register is a mechanism for licensing authorities to share details of individuals who have had a hackney carriage and/or private hire driver's licence revoked, suspended or an application refused. This is necessary for compliance with a legal obligation to which the Council is subject.
 - 2.11. Where a Combined (Dual) Hackney Carriage/Private Hire Driver's licence is revoked or suspended, or an application for one refused, the Licensing Authority will automatically record this decision on NR3S. This is a condition of applying for/being granted a Combined (Dual) Hackney Carriage/Private Hire Driver's licence.
 - 2.12. All applications for a new licence or licence renewal will automatically be checked on NR3S. If a search of NR3S indicates a match with an applicant, the Authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3S search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.
 - 2.13. The information recorded on NR3S itself will be limited to:
 - Full Name
 - Date of birth
 - Address and contact details
 - National Insurance number
 - Driving licence number
 - Decision taken
 - Date of decision
 - Date decision effective
- The information relating to suspensions, revocations and refusals will be retained on NR3S for a period of 11 years. Searches will be retained for 3 years.
- 2.14. If the Council receives a request for further information on a named person on the register from another Licensing Authority, it will only release the reasons for the entry on the register following receipt of an official and legal request.
 - 2.15. Information will be processed in accordance with the Data Protection Act 2018 (DPA) and UK General Data Protection Regulation (UK GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that

all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

- 2.16. If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the UK GDPR, you can do so to the authority's Data Protection Officer via dp@havant.gov.uk. Further information is also available at www.havant.gov.uk/data-protection.
- 2.17. You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

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3. Hackney Carriage and Private Hire Driver's Licences

- 3.1. Havant Borough Council issues a combined (Dual) Hackney Carriage and Private Hire Driver's Licence, allowing drivers to drive both hackney carriage and private hire vehicles licensed by the Licensing Authority.
- 3.2. In order to assess the suitability of an applicant or licence holder the Licensing Authority can ask for such information as they may reasonably consider necessary to determine whether the licence should be granted. The Licensing Authority will take into consideration the following factors and will therefore ask for information related to these matters:
 - Criminality
 - Period of holding a DVLA driver's licence
 - ~~Number of endorsed driving licence penalty points~~
 - Right to work in the UK
 - Immigration status
 - Medical fitness to drive
 - Standard of driving
 - General conduct/standard of behaviour
 - The conduct of the applicant in making the application
 - The previous licensing history of existing/former licence holders
 - Information on the NR3S database
 - Theoretical knowledge of issues and matters related to the work of a licensed driver
 - Tax conditionality (on renewal, or where an applicant holds / has previously held a licence with Havant Borough Council or another Licensing Authority)
- 3.3. This section of the Policy is intended to outline the Licensing Authority's requirements for obtaining a (Dual) Hackney Carriage and Private Hire Driver's Licence and provide guidance to applicants on how to meet the requirements.

Right to work in the UK

- 3.4. As required under the Immigration Act 2016, applicants must provide evidence that they have a right to work in the UK. Failure to provide satisfactory documentation will result in the application being refused.
- 3.5. The Licensing Authority reserves the right to provide documentation or information to the Home Office where considered necessary in determining an applicant or licensee's immigration status or to protect the public.
- 3.6. 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 UK.

Driving licence

- 3.7. An application for a licence must be accompanied by satisfactory evidence that the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive. The Licensing Authority will verify their driving licence record by using a driving licence check code.
- 3.8. The Licensing Authority considers that driving experience is relative to the length of time a person has been lawfully permitted to drive. Therefore, applicants must have held a full driving licence for a minimum of 12 months at the time of application. This licence must have been issued in the UK, the European Community (EC) or one of the countries in the European Economic Area (EEA).

Driving assessment

- 3.9. In addition to possessing a driving licence issued by a relevant country, all new applicants are required to have passed a driving assessment with a provider approved by the Council. The cost of such test shall be borne by the applicant or licensee and a pass certificate must be supplied. Certificates shall be no more than five years from the date of issue.
- 3.10. Existing drivers, who have not completed a driving assessment due to being licensed prior to this requirement first being introduced, will not be required to complete a driving assessment unless there is a break in their licence or it is deemed necessary and proportionate following a complaint or concerns raised. If their existing licence expires before it is renewed, they will need to meet this requirement before being re-licensed.

Knowledge test

- 3.11. All applicants must have passed the Licensing Authority's knowledge test. This assesses geographical knowledge (i.e. roads and locations), basic literacy and numeracy, the Highway Code and basic awareness of the role and responsibilities of a licensed driver. Payment for the test must be made in advance and failure to attend shall mean forfeiture of any monies paid.
- 3.12. An applicant who was previously licensed with this Council less than three years from the date of the new application, who has passed the Licensing Authority's knowledge test, will not be required to re-take the knowledge test.
- 3.13. If an applicant fails three successive knowledge tests, they will be required to wait at least 12 months (from the date of the most recent failure), before being able to take further tests.
- 3.14. In an applicant is found to have cheated during a test they will fail automatically. ~~and t~~ The Council ~~may~~ will use this information in

determining their fitness and propriety to hold a licence, which may result in the application being refused.

English language

- 3.15. An applicant must have sufficient ability to speak and read English, and to understand spoken and written English, to provide the service that they wish to be licensed for. This will be assessed throughout the application process.
- 3.16. 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.
- 3.17. Where concerns about an applicant or current licence holder's ability to speak and read English, and/or understand spoken and written English, are raised by an Authorised Officer during the course of the application process or duration of licence, the Licensing Authority reserves the right to require the applicant or licensee to pass an English language test with a provider approved by the Council. The cost of such test shall be borne by the applicant or licensee and a pass certificate must be supplied.

Safeguarding training

- 3.18. All new applicants must successfully complete a safeguarding awareness training course with a provider approved by the Licensing Authority. The cost of the course shall be borne by the applicant and a pass certificate or similar evidence of course completion shall be provided to the Licensing Authority before a licence is granted. The certificate shall be no more than five years from the date of issue.
- 3.19. The aim of the training is to provide the skills, knowledge and understanding of what is meant by safeguarding, how to identify the signs of child sexual exploitation, County Lines drug dealing and domestic abuse, to recognise what makes a person vulnerable and understand how to respond and where to report safeguarding concerns to.
- 3.20. Existing licensed drivers will be required to complete such training within 2 years of the date of adoption of this Policy.
- 3.21. The Council may accept evidence of safeguarding training with another provider, other than the Council's approved provider(s), if it considers the training to be consistent with the curriculum of its approved provider(s) training.
- ~~3.22. Refresher training in relation to the safeguarding of children and vulnerable people will subsequently be required every 3 years from the~~

~~date of the previous training. This refresher training must be undertaken with a provider approved by the Licensing Authority. The cost of the course shall be borne by the applicant and a pass certificate or similar evidence of course completion shall be provided to the Licensing Authority.~~

- 3.23. Failure to provide evidence completion of a safeguarding awareness training course ~~and/or refresher training~~ within the timescales given will result in the suspension of a drivers' licence or a refusal to renew the licence, as appropriate.
- 3.24. If a driver is concerned about the safety, welfare or behaviour of a vulnerable person, they should report this to the police by telephoning 101 (or 999 in an emergency). Other concerns can be reported to Crimestoppers on Tel 0800 555 111 and the anti-terrorist hotline on Tel 0800 789 321.

Medical fitness

- 3.25. The Council requires all applicants and licensed drivers to demonstrate that they meet the Group 2 Standards of Medical Fitness as applied by the DVLA to the licensing of lorry and bus drivers.
- 3.26. Applicants must undergo and pass a medical examination that meets this standard using the medical assessment form provided by the Council. Medical examinations must be carried out:
- Prior to a licence being granted (i.e. on initial application);
 - At 45 years of age, and every five years thereafter;
 - At 65 years of age, and every year thereafter.
- 3.27. Licence holders with certain medical conditions will also be required to adhere to additional requirements as detailed in the DVLA Group 2 Standards of Medical Fitness in order for them to retain their driver's licence.
- 3.28. The medical examination form must be completed by the applicant's or licensee's own GP, or another GP at the same practice, ~~in order that the examining GP has access to their full medical records. In exceptional circumstances, and with prior agreement from the Licensing Authority, a medical assessment may be carried out by another registered GP practice provided that the applicant's medical history has been viewed and assessed.~~ or a ~~medical provider approved by the Council.~~ The GP ~~or other medical professional~~ carrying out the medical must confirm they have viewed the applicant's medical history.
- 3.29. Licence holders must advise the Licensing Authority of any deterioration or other change in their health that may affect their driving capabilities as and when they occur.

- 3.30. Applicants and licensed drivers are responsible for all costs incurred in any medical examinations required by the Council.
- 3.31. Licensed drivers are under a legal duty to carry assistance dogs in their vehicles and without additional charge (as per the Equality Act 2010, as amended). Drivers with a medical condition which is caused or 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 a notice of exemption. The notice of exemption must be displayed in the vehicle in a prominent position such as on the dashboard or on the windscreen.
- 3.32. Licensed drivers are under a legal duty to transport wheelchair-bound passengers and passengers that require the use of mobility aids where the vehicle has the capability to do so safely, and provide mobility assistance, without additional charge (as per the Equality Act 2010, as amended). Drivers with a medical condition that makes it impossible or unreasonably difficult to provide mobility assistance may apply to the Council for exemption from the duty on medical grounds.

For the purpose of exemptions, 'mobility assistance' means:

- Assistance to enable the passenger to get into or out of the vehicle;
 - If the passenger wishes to remain in the wheelchair, assistance to enable the passenger to get into and out of the vehicle while in the wheelchair;
 - Assistance to load the passenger's luggage or mobility aids into or out of the vehicle;
 - If the passenger does not wish to remain in the wheelchair, assistance to load the wheelchair into and out of the vehicle.
- 3.33. If an application is successful, they will be issued with an exemption certificate and a notice of exemption. The notice of exemption must be displayed in the vehicle in a prominent position such as on the dashboard or on the windscreen. The exemption does not exempt the driver from carrying passengers with wheelchairs and/or mobility aids where the vehicle has the capability to do so safely
- 3.34. No licence shall be issued or renewed until confirmation that the applicant meets the DVLA Group 2 Standards of Medical Fitness has been received. If considered appropriate, a completed medical examination form will be referred to the Council's nominated medical advisor to determine whether or not the applicant meets the DVLA Group 2 Standards of Medical Fitness.
- 3.35. Where there is any doubt as to the medical fitness of the applicant or a licensed driver, the Council may require the person to undergo a further medical examination.

Fit and proper person test

- 3.36. Under sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 the Licensing Authority must not grant a licence for a hackney carriage and/or private hire driver unless satisfied that the applicant is a fit and proper person to hold a licence.
- 3.37. In each case, the authority has powers to grant a licence, renew it on application and, during the life of the licence, suspend or revoke it.
- 3.38. An individual will not be considered fit and proper to hold a licence if there is any evidence of dishonesty, and/or it can be shown that an applicant or existing licence holder has misled or attempted to mislead the Council as part of any process associated with the administration or determination of a licence.
- 3.39. There is no definition in law of a “fit and proper” person. The Department for Transport’s Statutory Taxi & Private Hire Vehicle Standards (July 2020) suggests the following test:
- “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?”
- If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.
- 3.40. In considering whether an individual is ‘fit and proper’, the safeguarding of the public is paramount. All decisions made on the suitability of an applicant or current licensee should be made on the balance of probability. The threshold is lower than that for a criminal conviction (that being beyond all reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.
- 3.41. In assessing whether the applicant (an individual, partner or director) is a ‘fit and proper’ person, the guidelines outlined Section 6 of this Policy will be considered.

Previous licences

- 3.42. An applicant or current licence holder must disclose to the Licensing Authority if they have had an application for a licence refused, or a licence revoked or suspended by another other licensing authority.

Disclosure and Barring Service (DBS)

- 3.43. All applicants and current licensees are required to obtain an enhanced DBS certificate with Barred List checks from the Council’s approved provider. If an individual has signed up to the DBS Update Service with a certificate not previously issued by this Authority, we will need to see the

certificate prior to completing a check on the DBS Update Service. Full information on how to apply is available from the Licensing Team. In the interests of public safety, the Council will not issue a licence to any individual that appears on the children and/or adult barred lists.

- 3.44. The Licensing Authority will review any convictions and other relevant information disclosed on the enhanced DBS certificate, and this will be taken into account when deciding whether or not to grant the application. The Licensing Authority may also contact the Police for further information surrounding a conviction, under Common Law Police Disclosure. This information will be used when deciding whether an applicant is a 'fit and proper' person.
- 3.45. All new applicants must subscribe and maintain a subscription to the DBS Update Service before the licence is issued. Existing drivers must sign up to the DBS Update Service when next required to produce an enhanced DBS certificate (i.e., their next licence renewal). Signing up to the DBS Update Service will be required by a condition placed on the licence. The Council (or the Council's authorised third party) will check the status of their certificate online should we consider it necessary to do so, and routinely every six months in line with guidance from the Department for Transport.
- 3.46. Where the DBS Update Service indicates that there have been changes on an individual's DBS record since its issue, or that the subscription has lapsed, a new enhanced DBS certificate will be required before consideration is given to grant/renewal. Should this occur during the period of licence, the Council may suspend the licence pending receipt of a satisfactory enhanced DBS certificate.
- 3.47. Applicants and licensees are responsible for the costs of obtaining the enhanced DBS certificate and any costs associated with maintaining the DBS Update Service subscription.

Overseas convictions

- 3.48. The Disclosure and Barring Service (DBS) cannot access criminal records held overseas; only foreign convictions that are held on the Police National Computer may be disclosed. Therefore, an enhanced DBS certificate may not provide a full picture of an individual's criminal record where there have been periods spent living or working overseas.
- 3.49. If an applicant has spent six continuous months or more living outside of the United Kingdom since the age of 18 years old, they must provide evidence of a Certificate of Good Character from the relevant country or countries covering the period the applicant was overseas. This will be a summary of any overseas convictions from the Ministry of Justice, Embassy or Home Country Police Service. They will also need to provide a Home Country Traffic Police Record.

- 3.50. Before renewing a drivers' licence, if the applicant has spent six continuous months or more living outside of the United Kingdom since their licence was previously renewed, they will also be required to provide evidence of a Certificate of Good Character from the relevant country or countries, and a Home Country Traffic Police Record. This must be provided before their licence is renewed.
- 3.51. Ex service personnel are exempt from the requirement to provide a Certificate of Good Character for their periods of military service. Proof of period of military service is required.
- 3.52. Should an applicant or licensee be unable to obtain a Certificate of Good Character from the relevant country, the reasons for this must be discussed with the Licensing Authority.

Dress code

- 3.53. The purpose of the dress code is to achieve a standard of dress that provides a positive image of the hackney carriage and private hire trade in the Havant Borough, to enhance the professional image of licensed drivers and ensure that public and driver safety is not compromised.
- 3.54. All clothing worn by the driver must be clean and in good condition. A smart, well-groomed appearance is expected, and the driver must have good standards of personal hygiene.
- 3.55. Suitable clothing includes full length trousers, knee length tailored shorts, knee length skirt, shirt or blouse which has a full body and long or short sleeves, or a knee length dress which has a full body and long or short sleeves.
- 3.56. Footwear for all drivers should fit around the heel of the foot and be suitable for driving. Flip-flops, clogs or similar, or bare feet are not permitted.
- 3.57. The following standards of dress are not acceptable:
- Dirty clothing;
 - Ripped or snagged clothing, or holes in clothing;
 - Sportswear, such as football shirts, tracksuits or beachwear;
 - Clothing with slogans or logos that may be perceived as offensive;
 - Studs or sharp edges to clothing;
 - Pronounced heels to shoes, or slip off shoes such as flip-flops;
 - Short skirts;
 - The wearing of hoods or similar clothing that obscures the driver's vision or their identity

New applicants

- 3.58. If an applicant has not successfully completed all of the criteria required above for being issued with a drivers' licence within 6 months of submitting an application to drive a hackney carriage and/or private hire vehicle, the application will be rejected and a new application with new supporting checks would need to be submitted.

Renewals for existing licensed drivers

- 3.59. Licences will not be renewed unless all of the information required to support the renewal application has been provided and has been assessed i.e. medical checks, DBS check etc. For the avoidance of doubt, evidence of the drivers' subscription to the DBS Update Service or a new enhanced DBS certificate must be produced prior to any licence being renewed.

Photographs

- 3.60. Applicants must provide suitable photographs to accompany their initial application, on renewal and as and when requested.

Refusals

- ~~3.61. In the case where a licence has been refused or revoked, no new application will be considered for a minimum period of 12 months from the date of refusal/revocation.~~

Duration of licence

- 3.62. Where the Licensing Authority issues a Hackney Carriage and Private Hire Driver's Licence, it will be for a maximum of three years from the date of issue. The authority may grant a licence for one year instead upon request, and dependant on the circumstances of the individual case.
- 3.63. Where the licence holder dies during the period of licence, the licence will immediately lapse.
- It is advised that the licence holder's next of kin or appointed executor(s) contact the Council to advise them of the death, to prevent reminder letters and other correspondence being sent
 - It is advised that the licence holder's next of kin or appointed executor(s) contact the Council to advise them of the death, to prevent reminder letters and other correspondence being sent.
 - Where relevant, the Council will notify the private hire operator(s) of the licence holder's death
- 3.64. A licence holder may surrender their licence at any time. In doing so, they must notify the Licensing Authority of the day on which they wish for the

surrender to take effect, and return their driver badge and paper licence to the Council within 7 days of such notification

Conditions and byelaws

- 3.65. The Council may attach such conditions to a Drivers licence as are considered necessary. The conditions for a Dual Hackney Carriage and Private Hire Vehicle Driver's licence are set out in Appendix A.
- 3.66. The Council has also made byelaws that are specifically applicable to Hackney Carriage drivers / proprietors. These are detailed on the Council's website www.havant.gov.uk/hackney-carriage-and-private-hire-licences

4. Hackney Carriage and Private Hire Vehicle Licences

Types of Licence

- 4.1. A hackney carriage (taxi) may be used to ply for hire at an authorised taxi rank, pick up passengers when 'flagged down' in the street, and when pre-booked. A hackney carriage may be licensed to carry a maximum of eight passengers.
- 4.2. A private hire vehicle may only be pre-booked via a private hire operator licensed by the same Licensing Authority. Such vehicles are licensed to carry up to eight passengers and may not ply for hire or take bookings other than via an operator.
- 4.3. A private hire vehicle may only be pre-booked via a private hire operator licensed by the same Licensing Authority. The vehicle must be driven by a private hire driver licensed by the same authority. Such vehicles may not ply for hire or take bookings other than via an operator.

Age of Vehicles

- 4.4. All petrol and diesel vehicles must be less than five years from the date of first registration at the time of initial licensing. The vehicle may be renewed on an annual basis at the discretion of an Authorised Officer.
- 4.5. All hybrid and electric vehicles must be less than eight years old from the date of first registration at the time of initial licensing. The vehicle may be renewed on an annual basis at the discretion of an Authorised Officer.

Vehicle Specifications

- 4.6. The following specifications apply to both hackney carriage and private hire vehicles. The suitability of a vehicle will be determined by an Authorised Officer using these specifications to inform their decisions.
- 4.7. **All vehicles must comply with M1 specification.**
- 4.8. Vehicles, including parts, fittings and accessories, shall be clean, tidy and maintained at all times in safe working order.
- 4.9. Vehicles shall be one standard colour, including the roof, bonnet, tailgate, door and all other panels.
- 4.10. Vehicles must comply in all respects with the requirements of any Acts and Regulations relating to motor vehicles in force at the point of initial licensing, and during the period of licence.
- 4.11. Vehicles must have a minimum of four wheels, and a wheelbase of not less than 2450mm measured between the centres of the front and rear wheel axles.

- 4.12. Vehicles must have a minimum of four doors, excluding any tailgate.
- 4.13. Comfortable and suitably upholstered seating must be provided for all passengers, with ample leg and head room, to the satisfaction of an Authorised Officer.
- 4.14. Seating capacity will be calculated on the basis of a passenger unit seat width of 400mm (measured laterally across the middle of any seat) and 400mm seat depth (measured from the front edge of any seat).
- 4.15. Where a vehicle has three or more rows of seats, all rear seated passengers (i.e., any passenger not sitting in the front of the vehicle) must have access to at least one door without the necessity for sliding, folding or removing seats or parts of seats.
- 4.16. In the case of battery powered vehicles, there must be sufficient charging capacity in the batteries to sustain the use of the vehicle for the carriage of passengers.
- 4.17. Vehicles must have ample luggage space within the vehicle, to the satisfaction of an Authorised Officer.
- 4.18. It may be necessary for a guard to be fitted between the luggage compartment and the passenger compartment, where an Authorised Officer considers that there is a risk to passenger safety.
- 4.19. Roof racks may be used, provided that they are of a suitable type and design and are securely fixed. Roof racks must not be loaded beyond the manufacturer's recommendations. The use of a roof rack does not negate the need for the vehicle to have ample luggage space within the vehicle.
- 4.20. Only right-hand drive vehicles will be considered for licensing; left-hand drive vehicles are not permitted.
- 4.21. Vehicles must have suitable tyres fitted, with tyre pressure maintained at manufacturer's recommendations. A minimum of 2mm tyre tread is required across the entire width and circumference of each tyre. Re-moulded or re-cut tyres are not acceptable.
- 4.22. All vehicles must carry a spare tyre of a suitable size and type for the vehicle. A spare tyre, temporary wheel, skinny wheel or run flat tyre may be used to finish a journey, but must then be re-placed prior to the next.
- 4.23. Vehicles using automatic or semi-automatic transmission must be fitted with a device to prevent the engine starting with the transmission selector in a 'drive' or 'reverse' position.

- 4.24. Filling points for fuel tanks must be accessible only from outside the vehicle, with a suitable filler cap fitted that is designed to prevent it being accidentally dislodged.
- 4.25. Vehicles must carry either a dry powder or BCF (or similar) fire extinguisher, carried in such a position that it is readily available for use. On renewal of the vehicle licence, the fire extinguisher shall be marked with the plate number of the vehicle to which it relates, using permanent marker or similar.
- 4.26. Vehicles must have a sun visor and adequate devices for de-misting, defrosting and washing the windscreen fitted, all of which capable of operation by the driver whilst seated in the driver's seat.
- 4.27. Windows must be provided to the sides and rear of the vehicle, and all passenger door windows must be capable of being opened easily by passengers whilst seated.
- 4.28. Vehicles shall have adequate heating and ventilation fitted.
- 4.29. Passenger and driver doors must be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism.
- 4.30. Vehicles may display a front and rear sun strip, or a decal on the front doors of the vehicle, bearing only the name and contact details of the private hire operator by which the vehicle is operated. Any other advertising must be approved by the Council prior to being displayed.
- 4.31. Where a vehicle has been involved in an accident and classed as a 'write off', it will not be licensed. This includes write-off categories A, B, C, D, N and S.
- 4.32. Once licensed, vehicles shall display a licence plate on the rear of the vehicle, permanently fixed to the satisfaction of an Authorised Officer.
- 4.33. Once licensed, vehicles shall display approved signage inside the vehicle that advises customers how to contact the Licensing Authority in the event that they wish to make a comment or complaint about the driver, vehicle and/or operator.
- 4.34. Registration plates displayed on the vehicle must comply with the DVLA's requirements: <https://www.gov.uk/displaying-number-plates>
- 4.35. Any window tinting applied must comply with the requirements under The Road Vehicles (Construction and Use) Regulations 1986.
- 4.36. The Council does not currently mandate or prohibit the installation of CCTV in licensed vehicles. Vehicle proprietors installing CCTV must have

regard to guidance issued by the Information Commissioner's Office regarding the installation of CCTV.

Wheelchair Accessible Vehicles

- 4.37. All wheelchair accessible vehicles (WAVs) must be capable of carrying a wheelchair and its passenger, and a minimum of one other passenger. The vehicle can be either side or rear loading.
- 4.38. Wheelchairs must be capable of being secured in the vehicle, with the passenger remaining in the wheelchair, facing either a forward or rearward position.
- 4.39. A converted vehicle must meet M1 specification, and a Certificate of Conversion from a reputable company must be supplied. Where the wheelchair accessible vehicle is less than 10 years old, Individual Vehicle Approval (IVA) must be obtained from the DVSA at the proprietor's expense and evidence of this supplied to the Council prior to licensing.
- 4.40. Wheelchair accessible vehicles may be fitted with electric winches or pulleys, where a certificate of installation confirming that the equipment complies with all relevant safety standards is provided.

Hackney Carriage Vehicles

- 4.41. The Council currently limits the number of licensed hackney carriages to a maximum of 40.
- 4.42. Hackney carriage vehicles bearing the licence numbers 46-50 are required to be wheelchair accessible (either rear or side loading).
- 4.43. The following requirements apply specifically to hackney carriage vehicles, in addition to the general vehicle specifications.
- 4.44. Hackney carriage vehicles shall be fitted with a taximeter of an approved type, which shall be calibrated and tested by a competent taximeter agent. A completed certificate of calibration shall be submitted to the Licensing Authority as evidence that the taximeter has been calibrated and tested.
- 4.45. Hackney carriage vehicles shall have a roof light or 'top box' bearing the word 'TAXI' fitted to the roof of the vehicle, which may be illuminated only when the vehicle is plying or standing for hire.

Plate Exemption

- 4.46. Private hire vehicles used exclusively to carry out executive contracts (i.e., for high profile clients) may apply to the Council for an exemption from the requirement to display a licence plate on the rear of the vehicle. This application must be accompanied by evidence of the contract(s) in place,

and any further information that the Council requires to determine such an application.

Special Vehicles (including stretch limousines)

- 4.47. The following requirements apply specifically to stretch limousines and other special vehicles, in addition to the general vehicle specifications. An Authorised Officer may depart from the general vehicle specifications, or these requirements were considered necessary and proportionate in circumstances of the individual case.
- 4.48. The Council will determine whether a vehicle is considered a 'special vehicle.' This may include vintage or classic vehicles (over 30 years old), niche vehicles such as fire engines, ambulances, replica vintage vehicles, and wheelchair accessible vehicles designed to carry two or more wheelchairs on a permanent basis.
- 4.49. Any vehicle proposed to be licensed under this section of the Policy shall be inspected by an Authorised Officer prior to application and any grant of a licence.
- 4.50. Any application to license a vehicle under this section of the Policy shall be accompanied by satisfactory evidence that the vehicle was modified by a qualified converter. This may include requiring a QVM sticker and/or full details of the vehicle converter or modifier.
- 4.51. No stretched limousine will normally be accepted for licensing if it has been lengthened by more than 120 inches or weighs more than 3500 kg. A plate must be affixed to the vehicle by the converter or modifier, stating vehicle weight information.
- 4.52. Vehicles must be fitted with tyres designed and manufactured for the type of vehicle, and capable of supporting the maximum loaded weight for each axle when the vehicle is driven at maximum speed. The full-size spare wheel required must also be fitted with the same type of tyre.
- 4.53. Individual Vehicle Approval (IVA) or equivalent in respect of the vehicle must be submitted to the Council prior to licensing.
- 4.54. Seatbelts complying with current legislation must be fitted in respect of each passenger seat.
- 4.55. Vehicles licensed under this section of the Policy may be required to have a mechanical test undertaken every 6 months at the Council's approved testing centre. This will be at the discretion of an Authorised Officer. Only vehicles that pass this test may be licensed.

- 4.56. No vehicle licensed under this section of the Policy shall have the appearance of any current operational emergency service vehicle, and functional blue lights are not permitted. An Authorised Officer must be satisfied that a member of the public could not reasonably confuse the vehicle with a genuine emergency vehicle.

New applications

- 4.57. It is recommended that a vehicle presented for licensing for the first time is inspected by an Authorised Officer prior to an application being submitted. This ensures that the applicant does not incur excessive costs in purchasing a vehicle that does not meet the specification outlined in this Policy.
- 4.58. An application for a new hackney carriage or private hire vehicle licence shall be submitted using the Council's prescribed application form. Applications shall be accompanied by the following documents:
- a) The V5C registration document (logbook) for the relevant vehicle. Where the vehicle has been recently purchased and the V5C has not yet been received, a full HPI check (against the VIN and VRN) obtained from a reputable provider must be provided.
 - b) A valid MOT certificate from a reputable MOT testing station (for all hackney carriages exceeding 12 months old, and for any private hire vehicle exceeding three years old). The MOT certificate must be valid for the date that the licence is due to commence.
 - c) Proof of a completed mechanical test undertaken at a garage or testing station approved by the Council, dated no more than 3 months from the date that the licence is due to commence.
 - d) A valid certificate of motor insurance (or temporary cover note) for the vehicle, covering the appropriate licence types for the carrying of passengers for hire.
 - e) Evidence that the vehicle has been appropriately taxed.
 - f) A basic DBS certificate for each proprietor to be named on the vehicle licence, except where they are already a licensed hackney carriage and private hire driver, or private hire operator, with the Council. This is required annually.
 - g) Payment of the prescribed fee, once the above criteria have been fulfilled and the licence is ready to grant.
- 4.59. An application for a hackney carriage or private hire vehicle may be submitted by either an individual, partnership or registered company. Where the applicant is a partnership or registered company, section (f) above applies to all partners and/or company directors.
- 4.60. Where a licence is held by a partnership or registered company, the licence holder shall notify the Council of any changes to partners or company directors within 7 days, and a basic DBS certificate will be required for each new partner or company director. Should this occur

during the period of licence, the Council may suspend the licence pending receipt of satisfactory basic DBS certificates.

- 4.61. Where any Hackney Carriage and Private Hire Driver ceases to hold such a licence but continues to hold a Hackney Carriage or Private Hire Vehicle Licence, a basic DBS certificate will be required immediately, and the Hackney Carriage or Private Hire Vehicle Licence may be suspended until this is received by the Licensing Authority.

Renewals

- 4.62. An application to renew a hackney carriage or private hire vehicle licence must be submitted prior to the current licence expiring. No grace period will be given. In the event that the licence expires, a new application must be made, and the vehicle must comply with the requirements for new vehicles.
- 4.63. An application to renew a vehicle licence shall be submitted using the Council's prescribed application form. Applications shall be accompanied by the same documents required for a new vehicle licence application. Payment of the prescribed fee is due before a licence is granted.
- 4.64. A vehicle licence will not be renewed unless all the information required to support the renewal application has been provided and assessed.

Sale of vehicle (transfer of proprietor)

- 4.65. Where a licensed vehicle is sold to another vehicle proprietor during the period of licence, an application must be submitted using the Council's prescribed application form for a sale of vehicle. Applications shall be accompanied by a valid certificate of insurance and the V5C registration document. Payment of the prescribed fee is due before a licence is granted. The licence expiry date will remain the same.
- 4.66. Where a licensed vehicle is sold to another vehicle proprietor for social, domestic and pleasure use, the vehicle licence must be formally surrendered prior to the sale taking place, with the plate and licence returned to the Council.

Vehicle transfer (hackney carriages only)

- 4.67. Where the licence holder wishes to change the vehicle to which the hackney carriage vehicle licence applies during the period of licence, an application must be submitted using the Council's prescribed application form for a transfer of hackney carriage vehicle licence. Applications shall be accompanied by the same documents required for a new vehicle licence application. Payment of the prescribed fee is due before a licence is granted. The licence will be granted for 12 month from the date of issue.

Duration of licence

- 4.68. Where the Licensing Authority issues a hackney carriage or private hire vehicle licence, it will be for a maximum of 12 months from the date of issue. The authority may grant a licence for less time dependant on the circumstances of the individual case.
- 4.69. Where the licence holder is an individual, and where that individual dies during the period of licence, the following procedure applies:
- Upon notification of the death to the Council, the licence will be immediately suspended;
 - The Council will allow the remaining period of licence for the licence holder's next of kin or appointed executor(s) to complete a 'sale of vehicle' application and submit the necessary documentation and fee;
 - Upon receipt of a valid 'sale of vehicle' application, the Council will issue the licence in the relevant name and lift the suspension;
 - In the event that a 'sale of vehicle' application is not submitted as above, the licence will expire and no renewal will be permitted.
- 4.70. Where the licence holder is a partnership or registered company, and one of the partners or company directors dies during the period of licence, the licence will continue to be held in the name of the partnership or registered company. As per section 4.60 of the Policy, the licence holder must notify the Council within 7 days of any changes to the partnership or directorship of the registered company. Where the partner or company director who has died is the only partner or company director in respect of that partnership or registered company, the above procedure for individual licence holders must be followed.
- 4.71. A licence holder may surrender their licence at any time. In doing so, they must notify the Licensing Authority of the day on which they wish for the surrender to take effect and return their licence plate and paper licence to the Council within 7 days of such notification.

Temporary Vehicles

- 4.72. A temporary licensed vehicle may be required in cases where a hackney carriage or private hire vehicle has been involved in an accident or is unusable for reasons of mechanical issues or safety. Temporary vehicles must comply with the requirements of this Policy unless otherwise stated.
- 4.73. The Council will license a temporary vehicle for a period of 1 month upon receipt of an application, payment of the fee and satisfactory documentation. The period of licence may be extended on request and at the discretion of an Authorised Officer.
- 4.74. Applicants for temporary vehicles licences need not comply with the requirement to supply a basic DBS certificate.

Enforcement

- 4.75. A licensed vehicle may be called in for inspection at any time by an Authorised Officer to ensure compliance. An Authorised Officer may also require a vehicle to undergo a mechanical test at a garage or testing station approved by the Council, where concerns are raised regarding the fitness of the vehicle. Failure to attend an inspection or mechanical test, or show any documentation as requested, may lead to suspension or revocation of licence.
- 4.76. A vehicle licence may be suspended where it does not comply with any section of this Policy or the relevant conditions. Suspensions may take immediate effect where there is a risk to public safety. The Licensing Authority will require the licence plate and windows stickers to be returned when the suspension takes effect. A suspension shall only be lifted upon receipt of evidence that the vehicle has been repaired to a satisfactory standard. An Authorised Officer may require any such documentation they deem necessary to determine whether the vehicle is fit to be licensed.

Accidents

- 4.77. Where a hackney carriage or private hire vehicle has been involved in an accident, or damaged in such a way that causes it to breach vehicle conditions, the vehicle proprietor shall notify the Council within 72 hours of such accident or damage.
- 4.78. Where an Authorised Officer considers the accident or damage to cause the vehicle to be unfit for use as either a hackney carriage or private hire vehicle, the licence may be suspended or revoked. The Licensing Authority will require the licence plate and windows stickers to be returned when the suspension or revocation takes effect.
- 4.79. The suspension of a vehicle licence following an accident or damage may be lifted upon receipt of evidence that the vehicle has been repaired to a satisfactory standard. An Authorised Officer may require any such documentation they deem necessary to determine whether the vehicle is fit to be licensed; this may include photographs, garage worksheets, a mechanical test at the Council's approved garage, or an MOT.

Conditions

- 4.80. The Council may attach such conditions to a hackney carriage or private hire vehicle licence as are considered necessary. The standard conditions for Hackney Carriage and Private hire Vehicle Licences are set out in Appendix B.

5. Private Hire Operator's Licences

- 5.1. Private hire operators are either a business or individual(s) that makes provision for the invitation or acceptance of bookings for private hire vehicles. Any business or individuals(s) that make provision for inviting or accepting bookings in the Havant Borough, or who dispatches private hire vehicles licensed by Havant Borough Council, must first obtain a Private Hire Operator's Licence from the Council.
- 5.2. Any private hire vehicle dispatched by a licensed private hire operator, and any individual driving said vehicle, must be licensed by the same Licensing Authority as the private hire operator. This is known as the 'trinity of licences.'
- 5.3. In order to assess the suitability of an applicant or licence holder the Licensing Authority can ask for such information as they may reasonably consider necessary to determine whether the licence should be granted. The Licensing Authority will take into consideration the following factors and will therefore ask for information related to these matters:
 - Criminality
 - Right to work in the UK
 - Immigration status
 - General conduct/standard of behaviour
 - The conduct of the applicant in making the application
 - The previous licensing history of existing/former licence holders
 - Checks undertaken by the operator on the staff members that they employ
 - Tax conditionality (on renewal, or where an applicant has holds / has previously held a licence with another Licensing Authority)
- 5.4. An application for a private hire operator's licence may be submitted by either an individual, partnership or registered company. Where the applicant is a partnership or registered company, the Licensing Authority may consider the above information in relation to all partners and/or company directors.
- 5.5. Where a licence is held by a partnership or registered company, the operator shall notify the Council of any changes to partners or company directors within 7 days, and a basic DBS certificate will be required for each new partner or company director. Should this occur during the period of licence, the Council may suspend the licence pending receipt of satisfactory basic DBS certificates.
- 5.6. This section of the Policy is intended to outline the Licensing Authority's requirements for obtaining a Private Hire Operator's Licence and provide guidance to applicants on how to meet the requirements.

Right to work in the UK

- 5.7. As required under the Immigration Act 2016, applicants must provide evidence that they have a right to work in the UK. Failure to provide satisfactory documentation will result in the application being refused.
- 5.8. Where the application is being made by more than one individual, evidence of right to work in the UK must be provided for all individuals. Where the application is being made by a partnership or registered company, evidence of right to work in the UK must be provided for all partners or company directors.
- 5.9. The Licensing Authority reserves the right to provide documentation or information to the Home Office where considered necessary in determining an applicant or licensee's immigration status or to protect the public.
- 5.10. 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 UK.

Operating address

- 5.11. Applicants must provide details of an operating address within the Havant Borough and are expected to obtain the relevant proof of right to occupy and any necessary planning permission. Evidence of proof of right to occupy and planning permission may be requested by the Licensing Authority.
- 5.12. It is expected that any licensed private hire operator shall make available their booking records for inspection by the Licensing Authority at the operating address specified, **by appointment only**.

Private hire vehicles

- 5.13. Private hire vehicles operated by the private hire operator must be licensed by the same Council.
- 5.14. There is no maximum limit to the number of vehicles an operator may have.
- 5.15. Records of all licensed vehicles operated must be maintained, as per conditions(s) applied to the Private Hire Operator's Licence.

Staff members

- 5.16. The operator is responsible for all persons (and vehicles) that are employed, contracted or otherwise used in the course of their business. To that end, the operator must undertake sufficient checks to satisfy

themselves that only suitable drivers, administrative staff and vehicles are used, and continue to be used in the course of their business.

- 5.17. Private hire operators and drivers are not necessarily the only individuals who will have contact with customers. For example, staff members may be employed for the purposes of taking bookings and dispatching vehicles. It is the operator's responsibility to ensure that staff employed in these roles do not present any undue risk to the public or the safeguarding of children and vulnerable adults.
- 5.18. **Where staff members are used to take bookings and dispatch vehicles,** the operator must ensure that a register of all staff members responsible for taking bookings and/or dispatching vehicles is maintained. These staff must provide the operator with a basic DBS certificate prior to the start of their employment. Evidence of this may be required by the Licensing Authority at the point of application and/or in the course of checking operator records.
- 5.19. All new applicants must provide the Licensing Authority with a policy on the employment of ex-offenders. This must, as a minimum, detail how often a basic DBS certificate will be required for staff members and the process for ensuring that new staff members disclose any convictions prior to employment and during their employment.
- 5.20. All current licensed private hire operators must provide a copy of their policy on employing ex-offenders to the Licensing Authority prior to their next licence renewal.
- 5.21. **Operators who do not employ any staff members for the purpose of taking bookings or dispatching vehicles need not comply with the requirement to maintain a register of staff, obtain DBS certificates for staff, or provide a policy on the employment of ex-offenders.**
- 5.22. Any failure of the operator to ensure that appropriate checks are carried out on staff members prior to and during employment may call into question whether they remain 'fit and proper' to hold a licence.

Complaints

- 5.23. All new applicants must provide the Licensing Authority with their procedure for dealing with customer complaints. This may be a paper-based or electronic procedure and must as a minimum include the recording of the customer's name, the date that the complaint was made, the nature of the complaint and how it was rectified. The procedure must be to the satisfaction of the Licensing Authority prior to any licence being issued. Current licence holders must provide the Licensing Authority with the above prior to their next licence renewal.

Records to be kept

- 5.24. Records of all bookings taken and vehicle dispatched must be maintained, as per conditions applied to the Private Hire Operator's Licence.

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Safeguarding training

- 5.25. All new applicants must successfully complete a safeguarding awareness training course with a provider approved by the Licensing Authority. The cost of the course shall be borne by the applicant and a pass certificate or similar evidence of course completion shall be provided to the Licensing Authority before a licence is granted. The certificate shall be no more than five years from the date of issue.
- 5.26. Where the application is being made by more than one individual, evidence of a successfully completed safeguarding awareness training course must be provided for all individuals. Where the application is being made by a partnership or registered company, evidence of a successfully completed safeguarding awareness training course must be provided for all partners or company directors. The certificate(s) shall be no more than five years from the date of issue.
- 5.27. The aim of the training is to provide the skills, knowledge and understanding of what is meant by safeguarding, how to identify the signs of child sexual exploitation, County Lines drug dealing and domestic abuse, to recognise what makes a person vulnerable and understand how to respond and where to report safeguarding concerns to.
- 5.28. Existing licensed operators will be required to complete such training within 2 years of the date of adoption of this Policy.
- 5.29. The Council may accept evidence of safeguarding training with another provider, other than the Council's approved provider(s), if it considers the training to be consistent with the curriculum of its approved provider(s) training.
- 5.30. Failure to provide evidence completion of a safeguarding awareness training course within the timescales given will result in the suspension of an operator's licence or a refusal to renew the licence, as appropriate.
- 5.31. If an operator is concerned about the safety, welfare or behaviour of a vulnerable person, they should report this to the police by telephoning 101 (or 999 in an emergency). Other concerns can be reported to Crimestoppers on Tel 0800 555 111 and the anti-terrorist hotline on Tel 0800 789 321.

Use of Public Service Vehicles and Passenger Carrying Vehicle Drivers

- 5.32. A private hire operator may choose to utilise public service vehicles (PSVs) and passenger-carrying vehicle (PCV) licensed drivers to fulfil some of their bookings. These vehicles do not require licensing as private hire vehicles.
- 5.33. When utilising a PSV, the operator must ensure that the customer provides informed consent to such a vehicle being used to fulfil their

booking. Furthermore, the operator shall ensure that details of the PSV are recorded as per the operator conditions.

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Fit and proper person test

- 5.34. Under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 the Licensing Authority must not grant a Private Hire Operator's Licence unless satisfied that the applicant is a fit and proper person to hold such a licence.
- 5.35. In each case, the authority has powers to grant a licence, renew it on application and, during the life of the licence, suspend or revoke it.
- 5.36. An individual will not be considered fit and proper to hold a licence if there is any evidence of dishonesty, and/or it can be shown that an applicant or existing licence holder has misled or attempted to mislead the Council as part of any process associated with the administration or determination of a licence.
- 5.37. There is no definition in law of a "fit and proper" person. The Institute of Licensing's "Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades" (April 2018) suggests the following test:
- "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"
- If, on the balance of probabilities, the answer to the question is 'no', the applicant should not hold a licence.
- 5.38. In considering whether an individual is 'fit and proper', the safeguarding of the public is paramount. All decisions made on the suitability of an applicant or current licensee should be made on the balance of probability. The threshold is lower than that for a criminal conviction (that being beyond all reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.
- 5.39. In assessing whether the applicant (an individual, partner or director) is a 'fit and proper' person, the guidelines outlined Section 6 of this Policy will be considered.

Previous licences

- 5.40. An applicant or current licence holder must disclose to the Licensing Authority if they have had an application for a licence refused, or a licence revoked or suspended by another other licensing authority.

Disclosure and Barring Service (DBS)

- 5.41. All applicants and current licensees are required to obtain an annual basic DBS certificate with Barred List checks from either the Council's approved

provider or GOV.UK. If an individual has signed up to the DBS Update Service with a certificate not previously issued by this Authority, we will need to see the certificate prior to completing a check on the DBS Update Service. Full information on how to apply is available from the Licensing Team.

- 5.42. Where the application is being made by more than one individual, an annual basic DBS certificate must be obtained for all individuals. Where the application is being made by a partnership or registered company, a basic DBS certificate must be obtained for all partners or company directors.
- 5.43. Where the applicant is being made by an individual who already holds a Hackney Carriage and Private Hire Drivers Licence issued by Havant Borough Council, there is no requirement for them to obtain a basic DBS certificate in addition.
- 5.44. The Licensing Authority will review any convictions and other relevant information disclosed on the basic DBS certificate, and this will be taken into account when deciding whether or not to grant the application. The Licensing Authority may also contact the Police for further information surrounding a conviction, under Common Law Police Disclosure. This information will be used when deciding whether an applicant is a 'fit and proper' person.
- 5.45. Where any Hackney Carriage and Private Hire Driver ceases to hold such a licence but continues to hold a Private Hire Operator's Licence, a basic DBS certificate will be required immediately, and the Private Hire Operator's Licence may be suspended until this is received by the Licensing Authority.
- 5.46. All new applicants are advised to subscribe and maintain a subscription to the DBS Update Service before the licence is issued. Existing operators are advised to sign up to the DBS Update Service when next required to produce a basic DBS certificate. Licensees must also give consent to the Council to check the status of their certificate online should we consider it necessary to do so, and routinely every 12 months in line with guidance from the Department for Transport. Where the DBS Update Service indicates that there have been changes on an individual's DBS record since its issue, a new basic DBS certificate will be required before consideration is given to grant/renewal.
- 5.47. A licence will not be granted in the absence of a current basic DBS certificate or renewed without either the same or a check completed via the DBS Update Service. A licence will be suspended if a check cannot be completed via the DBS Update Service.
- 5.48. Applicants and licensees are responsible for the costs of obtaining the basic DBS certificate and any costs associated with maintaining the DBS Update Service subscription.

New applications

- 5.49. If an applicant has not successfully completed all of the criteria required above for being issued with an operator's licence within 6 months of submitting an application, the application will be rejected and a new application with new supporting checks would need to be submitted.

Renewals

- 5.50. Licences will not be renewed unless all of the information required to support the renewal application has been provided and has been assessed i.e., basic DBS certificate.
- 5.51. An application to renew a private hire operator's licence must be submitted prior to the current licence expiring. No grace period will be given. In the event that the licence expires, a new application must be made.
- 5.52. An application to renew a private hire operator's licence shall be submitted using the Council's prescribed application form. Applications shall be accompanied by the same documents required for a new application. Payment of the prescribed fee is due before a licence is granted.
- 5.53. A private hire operator's licence will not be renewed unless all the information required to support the renewal application has been provided and assessed.

Re-application after refusal

- 5.54. In the case where a licence has been refused or revoked no new application will be considered for a minimum period of 12 months from the date of refusal/revocation.

Duration of licence

- 5.55. Where the Licensing Authority issues a Private Hire Operator's Licence, it will be for a maximum of five years from the date of issue. The authority may grant a licence for fewer years instead upon request, and dependant on the circumstances of the individual case.
- 5.56. Where the licence holder is an individual, and where that individual dies during the period of licence, the licence will immediately lapse.
- It is advised that the licence holder's next of kin or appointed executor(s) contact the Council to advise them of the death, to prevent reminder letters and other correspondence being sent.
 - Where possible, the paper licence and should be returned to the Council.
 - The Council shall endeavour to notify relevant private hire drivers and vehicle proprietors of the licence holder's death.

- 5.57. Where the licence holder is a partnership or registered company, and one of the partners or company directors dies during the period of licence, the licence will continue to be held in the name of the partnership or registered company. As per section 5.5 of the Policy, the licence holder must notify the Council within 7 days of any changes to the partnership or directorship of the registered company.
- 5.58. Where the partner or company director who has died is the only partner or company director in respect of that partnership or registered company, licence will immediately lapse.
- 5.59. A licence holder may surrender their licence at any time. In doing so, they must notify the Licensing Authority of the day on which they wish for the surrender to take effect and return their paper licence to the Council within 7 days of such notification.

Conditions

- 5.60. The Council may attach such conditions to a Private Hire Operator's Licence as are considered necessary. The standard conditions for Private Hire Operator's Licences are set out in Appendix D.

6. Consideration of Criminal Convictions

- 6.1. The purpose of this section of the Policy is to provide guidance on the criteria considered by the Licensing Authority when determining whether or not an applicant or an existing licence holder is a 'fit and proper' person to hold a licence. It relates to the relevance of convictions, cautions and other for both new applicants and existing licensees.
- 6.2. As public trust and confidence in the overall safety and integrity of the hackney carriage and private hire trade is vital, the standards detailed in these guidelines will be applied to drivers, operators and vehicle proprietors.
- 6.3. There may be occasions where it is appropriate to depart from the Policy, and such instances must be agreed by the Licensing Team Leader or Environmental Health Manager or referred to the Licensing Sub-Committee as deemed appropriate in the individual circumstances.

Definitions

- 6.4. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction. Matters which have not resulted in a criminal conviction can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this Policy, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 6.5. In this Policy, "since completion of any sentence imposed" is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment, then the date that the sentence ends will be five years from the date of sentencing, regardless of the amount of time served by the applicant.
- 6.6. In this Policy the word "applicant" refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders who are having their licence reviewed; for example, due to a complaint or because the Licensing Authority has been made aware of offending behaviour.

Consideration of disclosed criminal history

- 6.7. An applicant with a conviction need not be automatically barred from obtaining a licence, but would normally be expected to:
 - Remain free of conviction for an appropriate period; and

- Show adequate evidence that they are a fit and proper person to hold a licence, with the onus on the applicant to produce such evidence.
- 6.8. 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.
- 6.9. If an applicant has any convictions, cautions, warnings, fixed penalty notices or charges awaiting trial, the Licensing Authority will consider the following:
- How relevant the offence(s) are to the licence being applied for;
 - The seriousness of the offence(s);
 - When the offence(s) were committed;
 - The date of conviction(s);
 - Circumstances of the individual concerned;
 - Sentence imposed by the Court;
 - The applicant's age at the time of conviction;
 - Whether they form part of a pattern of offending;
 - Any other character check considered reasonable;
 - Any other factors that might be relevant.
- 6.10. Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction.
- 6.11. An applicant must disclose any arrest and release, charge, conviction, caution, fixed penalty or community resolution on application. This information will be assessed by the Licensing Authority in determining whether the applicant is fit and proper to hold a licence. Furthermore, the Licensing Authority may take into consideration conduct that has not resulted in any police investigation or criminal conviction.
- 6.12. Failure by an applicant to disclose any arrest and release, charge, conviction, caution, fixed penalty or community resolution, that the Licensing Authority is subsequently advised of, may be seen as behaviour that questions the honesty and integrity and therefore suitability of the applicant, regardless of the outcome of the initial investigation.

Rehabilitation of Offenders Act 1974

- 6.13. The amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) provides that when applying for certain jobs and activities, certain convictions and cautions are considered 'protected'. This means that they do not need to be disclosed to employers, and if they are disclosed, employers cannot take them into account.
- 6.14. Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that all criminal convictions will be taken into account by the Local Authority in

determining the fitness and propriety of an individual. In terms of spent convictions, only relevant spent convictions will be considered. Vehicle proprietors and private hire operators are not exempt.

- 6.15. Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Licensing Authority in confidence.

Outstanding charges or summonses

- 6.16. If a new applicant has been charged with any offence and is awaiting trial, the determination of the application will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, this authority will take this Policy into account in deciding what action to take.

Single convictions

- 6.17. A person with a single conviction for certain offences will not necessarily be permanently barred from obtaining a licence, but is expected to remain free of conviction for between 5 and 10 years, depending on the seriousness of the offence and the relevant circumstances, before an application is considered. However, persons with convictions of a sexual or child-related nature or other very serious crime will not normally be issued with a licence.
- 6.18. The Licensing Authority reserves the right to extend the number of years free from conviction depending on the severity and/or the number of offences.

Offences resulting in death

- 6.19. 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, or will have their current licence revoked.

Exploitation

- 6.20. 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, or will have their current licence revoked. 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

- 6.21. 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. **Harassment is also considered a violent offence.** Any current driver convicted of a violent offence can expect their licence to be revoked.

Possession of a weapon

- 6.22. 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. Any current driver convicted of this type of offence can expect their licence to be revoked.

Sexual offences

- 6.23. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted, or will have their licence revoked. In addition, the Licensing Authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list and will revoke the licence of any current driver who appears on either.

Dishonesty

- 6.24. 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. Any current driver convicted of this type of offence can expect their licence to be revoked.

Discrimination

- 6.25. 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. Any current driver convicted of this type of offence can expect their licence to be revoked.

Drugs

- 6.26. 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 has elapsed since the completion of any sentence imposed. Any current driver convicted of this type of offence can expect their licence to be revoked.
- 6.27. 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 at their own expense to demonstrate that they are not using controlled drugs. Any current driver convicted of this type of offence can expect their licence to be revoked.

- 6.28. If there is evidence of persistent drugs use, misuse or dependency, a satisfactory medical report (in accordance with DVLA Group 2 medical standards) will be required before the licence is granted or at any time for a licensed driver.
- 6.29. If the applicant was an addict, they must show evidence of 5 years free from drug use after treatment.

Motoring convictions

- 6.30. 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 necessarily 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.
- 6.31. 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 driver licence providing the Licensing Authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

- 6.32. 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. Any current driver convicted of this type of offence can expect their licence to be revoked.

In these circumstances, any applicant will also have to undergo drugs testing at their own expense, following completion of any sentence or driving ban imposed, to demonstrate that they are not using controlled drugs.

- 6.33. If there is any suggestion that an applicant is alcohol dependent, a satisfactory medical report must be provided before the application can be granted. If the applicant is found to be an alcoholic, a period of five years must elapse after treatment is complete before a further licence application is considered.

Using a hand-held device whilst driving

- 6.34. Where an applicant has a conviction for using a hand-held 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. Any current driver convicted of this type of offence can expect their licence to be revoked.

Other motoring offences

- 6.35. A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand-held mobile telephone (these are addressed separately), and has not resulted in injury to any person or damage to any property (including vehicles). ~~Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. A licence holder who receives DVLA points while licensed that takes their total of DVLA points to 7 or more, can expect their licence to be revoked.~~ Motoring offences will be considered on a case-by-case basis, and where one or more motoring offences demonstrate to the Licensing Authority that the applicant or current driver is not a fit and proper person to hold a licence, their licence may be suspended or revoked, or their application refused.
- 6.36. A major traffic or vehicle related offence is one which is not covered by those under minor traffic or vehicle related offences. It does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand-held mobile telephone, these have been addressed separately. It does include any offence which resulted in injury to any person or damage to any property (including vehicles). Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. Any current driver convicted of this type of offence can expect their licence to be revoked.

Hackney carriage and private hire offences

- 6.37. Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. Any current driver convicted of this type of offence can expect their licence to be revoked.

Vehicle use offences

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

the completion of any sentence imposed. Any current driver convicted of this type of offence can expect their licence to be revoked.

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Repeat offending

- 6.39. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Where an applicant has more than one conviction, serious consideration will be given as to whether they are a fit and proper person to be granted or retain a licence. Where a pattern or trend of repeated offending is apparent, a licence will not be granted or a current licence will be revoked.
- 6.40. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs or while using a hand-held mobile telephone. It is likely that a licence will not be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a hand-held mobile telephone. It is also likely that a licence will not be granted if an applicant has had a disqualification from driving.

Behaviour once licensed

- 6.41. Once a licence has been granted, there is a continuing requirement on the part of the licensee to continue to be a 'fit and proper' person. If the licensee receives any convictions or is subject to other actions which would have prevented them being granted a licence on initial application, this will lead to the licence being revoked.
- 6.42. Licensed drivers are required to notify the Licensing Authority in writing 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, including the issue of a police fixed penalty notice. An arrest for any of the offences within this scope will result in a review by the Council as to whether the licence holder continues to be fit.
- 6.43. Licensed drivers are required to notify the Licensing Authority in writing within 7 days of any conviction not detailed in 6.43 above.
- 6.44. Licensed drivers are also required to notify the Licensing Authority if they have an application for a hackney carriage and/or private hire driver's licence refused by another licensing authority, or a licence suspended or revoked by another licensing authority, in writing within 7 days of such refusal, suspension or revocation.
- 6.45. If a licence holder falls short of the 'fit and proper' standard at any time, the licence will be revoked or refused on renewal.
- 6.46. The Council reserves the right to overturn a decision that has previously been made regarding issuing a licence, or refuse to renew a licence, based on the requirements in this Policy.

Referrals to DBS and Police

- 6.47. Where a Hackney Carriage and Private Hire Driver's Licence is revoked, or an application refused, the Council will consider whether it is appropriate to make a referral to the Disclosure and Barring Service (DBS) under the Safeguarding Vulnerable Groups Act 2006. This decision will be based on whether the licence holder or applicant has:
- harmed or poses a risk of harm to a child or vulnerable adult;
 - satisfied the 'harm test' outlined by the DBS; or
 - received a caution or conviction for a relevant offence; and
 - has or might in the future be working in regulated activity.
- 6.48. If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a Barred List. This will enable other licensing authorities to consider this should further applications to other authorities be made.
- 6.49. Where a Hackney Carriage and Private Hire Driver's Licence is revoked, or an application refused, on public safety grounds, the Council will consider whether it is appropriate to notify the police of the revocation or refusal.

7. Fees

Fee structure

- 7.1. The hackney carriage and private hire licensing regime provides that fees charged to applicants can cover the majority of the costs incurred by the Council in the administration of these licences. This includes elements of administration costs and the costs in ensuring compliance by licensees. Fees must be cost neutral.

Fee setting

- 7.2. Fees will typically be reviewed and set as part of the Council's annual budget process and come into force from 1st April each year. Any variation to fees will be subject to public consultation as required by the relevant legislation and will be approved by the Council's Licensing Committee and full Council.
- 7.3. Current prices for Council services can be viewed on the Council's website: <https://www.havant.gov.uk/>

8. Compliance and Enforcement

Introduction

- 8.1. The principal purpose of the hackney carriage and private hire licensing regime is to protect the public and promote public safety.
- 8.2. The Licensing Authority shall have regard to the Council's Environmental Health Enforcement Policy when undertaking its duties. The aim of this section is not to duplicate the Enforcement Policy but to detail how the Licensing Authority will approach enforcement in more detail, while operating within the overarching approach and principles detailed in the Environmental Health Enforcement Policy. Both policies comply with the principles in the Regulators Compliance Code. The Policy provides detail on what the public and licensees can expect from enforcement and will ensure all such action is proportionate and conducted with openness, fairness and transparency.
- 8.3. The Licensing Authority recognises that most businesses and individuals want to comply with the law. Assistance and advice will be provided, wherever possible, to help businesses and individuals meet their legal obligations. However, the Licensing Authority will take firm action against those who flout the law or act irresponsibly. Any kind of enforcement action will be primarily based on an assessment of risk to public safety.
- 8.4. A range of tools and powers will be used to ensure compliance. Compliance assessment is ultimately to ensure that the driver, vehicle proprietor or operator is a 'fit and proper' person to hold a licence and/or the vehicle is safe. The safety of passengers, pedestrians and other road users is paramount.
- 8.5. The purpose of enforcement action is to:
 - Protect the public;
 - ~~Punish offenders;~~
 - Change the behaviour of offenders;
 - Deter future non-compliance;
 - Provide a fair-trading environment for compliant individuals and businesses.
- 8.6. The Licensing Team Leader is responsible for the effective operation of this Policy. All Licensing Officers must be fully acquainted with the requirements of this Policy and any future amendments.
- 8.7. All Licensing Officers will follow this Policy when making enforcement decisions. Any departure from the Policy will be exceptional, capable of justification and be fully considered by the Licensing Team Leader or Environmental Health Manager before the decision is taken. Any departures from this Policy and the reasons for it, will be recorded.

- 8.8. The Council's Licensing Committee have jurisdiction in certain matters within this Policy. It is not generally necessary for Council Members to be involved in detailed consideration of individual cases (other than in very exceptional circumstances).
- 8.9. The Licensing Authority's principles of enforcement will include the following:
- Advice will be put clearly and simply and confirmed in writing on request. It will explain what is required, why it is required and define a timescale where applicable.
 - Ensuring that any enforcement action is proportionate to the potential risk(s).
 - Taking into account the individual circumstances of the case.
 - Working with licensees to assist them with meeting their legal obligations without unnecessary expense.
 - Legal requirements will be clearly distinguished from best practice advice.
 - Ensuring that any enforcement or remedial action taken is reasonable, necessary and proportionate in the circumstances.
 - Ensuring clear reasons for any formal enforcement action are given to the licensee(s) against whom any enforcement action is being taken, at the time the action is taken. These reasons will be confirmed in writing at the earliest opportunity. Complaints and relevant appeals procedures will be explained at the same time.
 - Carrying out duties in a fair, equitable and consistent manner.
 - Consulting and liaising with other local authorities and agencies, such as the Hampshire and Isle of Wight Licensing Officers' Group, and particularly, where there is a shared enforcement role, with other enforcing authorities.
 - Licensing staff will be courteous, identify themselves by name and carry an identity card. Contact details will be provided for customers requesting further help or advice.

Determining when enforcement action is taken

- 8.10. In determining the nature and extent of enforcement action, the Licensing Authority will consider the following:
- The risk of harm to the public and others.
 - Whether the matter is in the public interest.
 - The seriousness of the offence(s).
 - The consequence of non-compliance.
 - The explanation of the offender and their willingness to prevent recurrence.
 - Confidence in the individual that they will not offend in the future.
 - Whether there have been previous contraventions of policy, conditions etc.
 - The likely effectiveness of the various enforcement options.
 - The availability and reliability of witnesses.
 - The sufficiency of the evidence.

- Statutory defences.
- 8.11. Before formal enforcement action is taken, where appropriate, the relevant authorised officer will discuss the circumstances of the case with the Licensing Team Leader or Environmental Health Manager and complete an internal decision notice. Where immediate action is taken, reasons for such action will be given at the time and confirmed in writing. Where there are rights of appeal against formal action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.
- 8.12. In making decisions about enforcement action, the Council is not acting on behalf of an individual complainant, but rather is exercising a wider responsibility to secure a safe environment for the public and any others who may be affected.

Enforcement options

- 8.13. Enforcement action may only be initiated by officers who are authorised to do so in accordance with the Licensing Team’s delegation of authority. The enforcement options detailed below constitute incremental steps reflecting the seriousness of the non-compliance. The five levels of enforcement action are not necessarily sequential. While best practice recommends that prosecution is considered as a last resort, each case will be considered on its own merits. Action at any of the levels may be instigated following non-compliance as considered appropriate, considering the factors listed previously in section 8.10.

Level 1
<ul style="list-style-type: none"> • Verbal advice and/or guidance • Advisory letter(s) identifying non-compliance and how to rectify • Information to promote or assist compliance
Level 2
<ul style="list-style-type: none"> • Written warning advising of the potential consequences of continued non-compliance • Penalty points imposed on licence, as per Appendix 4 • Remedial action, such as completing a training course
Level 3
<ul style="list-style-type: none"> • Refusal to renew an existing licence • Suspension or revocation of a licence • Referral to Licensing Sub-Committee hearing for decision
Level 4
<ul style="list-style-type: none"> • Simple cautioning of adult offenders
Level 5
<ul style="list-style-type: none"> • Prosecution

- 8.14. The Licensing Authority may use a variety of informal actions to secure compliance with legislation, policy and/or conditions, including offering advice, verbal warnings, requests for action, the use of letters and inspection reports.
- 8.15. It may be appropriate to use informal action in the following circumstances:
- The act or omission is not serious enough to warrant formal action;
 - From the individual's / business's past history, it can be reasonably expected that informal action will achieve compliance;
 - The consequence of non-compliance will not pose a significant risk to the public.
- 8.16. Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

Penalty points

- ~~8.17. The Licensing Authority operates a penalty points system of enforcement for specified breaches of byelaws, policy or conditions of a licence. The penalty points system will apply to operators, drivers, and vehicle proprietors.~~
- ~~8.18. The primary objective of the penalty points scheme is to improve the levels of compliance amongst licensed drivers, vehicle proprietors and private hire operators, and to improve the standards, safety and protection of the travelling public. It is designed to work in conjunction with the other enforcement options detailed in this Policy. The scheme will record instances of non-compliance and act as a record of licence holder's behaviour and conduct, to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other forms of actions.~~
- ~~8.19. The issue of points is a formal and 'stepped' approach to dealing with enforcement concerns but does not prejudice the right of Authorised Officers to take other action if deemed necessary. Points may be awarded as a final (and only) sanction or given together with a verbal and written warning. Equally, if the 'offence' under investigation is one for which a prosecution could be instigated — that course of action may also be considered as appropriate.~~
- ~~8.20. Authorised Officer may operate the scheme and issue points accordingly. The penalty points scheme is detailed in Appendix E.~~

Simple cautioning of adult offenders

- 8.21. The Home Office Circular 016/2008 'Simple cautioning of adult offenders' states that the purpose of the simple caution is:
- to deal quickly and simply with less serious offenders where the offender has admitted the offence;
 - to divert them from unnecessary appearance in the criminal courts;
 - record an individual's criminal conduct for possible reference in future criminal proceedings or relevant security checks; and
 - to reduce the likelihood of re-offending.
- 8.22. In determining whether to issue a simple caution the requirements detailed in the Home Office Circular 016/2008 'Simple cautioning of adult offenders' will be followed. The Environmental Health Manager is designated the "cautioning officer" to issue simple cautions.
- 8.23. Where an individual declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action i.e. prosecution.
- 8.24. Where a simple caution has been given, other relevant regulatory bodies will be advised i.e. the Police.

Prosecution

- 8.25. The decision to refer a case for prosecution is a significant one. Prosecution will, in general, be restricted to those persons who blatantly disregard the law, refuse to achieve even the basic minimum legal requirements, and who put the public at significant risk.
- 8.26. The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:
- The seriousness of the alleged offence:
 - The risk of harm to the public;
 - Identifiable victims;
 - Disregard of public safety for financial reward.
 - The previous history of the party concerned:
 - Offences following a history of similar offences;
 - Failure to respond positively to past warnings;
 - Failure to comply with statutory notices.
 - The likelihood of the defendant being able to establish a due diligence defence;
 - The ability of any important witnesses and their willingness to co-operate;
 - The willingness of the party to prevent a reoccurrence of the problem;

- Any explanation offered by the suspected offender. This will always be encouraged;
 - The probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent;
 - Whether other enforcement action would be more appropriate.
- 8.27. There are various factors which will point away from a prosecution including:
- The likelihood of a nominal penalty;
 - The offence was committed as a result of a genuine mistake or misunderstanding. This must be balanced against the seriousness of the offence;
 - Whether any other enforcement action would be more appropriate.
- 8.28. When circumstances have been identified which may warrant a prosecution, all relevant evidence and information shall be considered to enable a consistent, fair and objective decision to be made. For the prosecution to proceed there must be relevant, admissible, substantial and reliable evidence that an identifiable person or company has committed an offence. There must be a realistic prospect of conviction. There must be a positive decision, based on relevant criteria, that it is in the public interest to prosecute.
- 8.29. Before a prosecution proceeds, the case officer must have the prosecution report signed off by the Environmental Health Manager. It will then be referred to the Legal Team.
- 8.30. Where a prosecution is initiated, other relevant bodies may be advised. These bodies may include the Police.
- 8.31. In all cases where there may be a shared enforcement responsibility, such as Hampshire Constabulary, the Gambling Commission, Trading Standards Department or the Hampshire Fire and Rescue, then the other party will always be consulted on the best co-ordinated approach.

Remedial action

- 8.32. Regardless of any course of action arising following non-compliance with the law, policy and/or conditions, other actions including the following may also be taken:
- Issue of fixed penalty notices;
 - Referral to the Licensing Sub-Committee;
 - Referral to another appropriate agency;
 - Referral to another appropriate Local Authority;
 - Referral to the Police;
 - Referral to the Vehicle and Operator Services Agency (VOSA);
 - Referral to another appropriate department within the Council;

- Requirement to re-take knowledge test or other training course.

Decisions

- 8.33. Where Licensing Officers have delegated powers to grant licences, they will utilise the guidelines set in this Policy when making such decisions. Where appropriate, applications for licences will be referred to the Licensing Sub-Committee for determination. While Officers and the Committee will have regard to the guidelines contained in the Policy, each case will be considered on its individual merits and, where the circumstances demand, the Committee/Officer may depart from the Policy.
- 8.34. Any applicant who is refused a Hackney Carriage and Private Hire Driver's Licence, on the grounds that the Licensing Authority is not satisfied that they are a fit and proper person to hold such a licence, has the right of appeal to the Magistrates' Court.
- 8.35. Any applicant who is refused a Hackney Carriage Vehicle Licence has the right of appeal to the Crown Court.
- 8.36. Any applicant who is refused a Private Hire Vehicle has the right of appeal to the Magistrates' Court.
- 8.37. Any applicant refused a Private Hire Operator's Licence, on the grounds that the Licensing Authority is not satisfied that they are a fit and proper person to hold such a licence, has the right of appeal to the Magistrates' Court.
- 8.38. Any licence holder whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

APPENDIX A

Combined (Dual) Hackney Carriage and Private Hire Driver's Conditions

These conditions are made under section 51 Local Government (Miscellaneous Provisions) Act 1976 by Havant Borough Council in respect of Private Hire Drivers.

The driver must make themselves familiar with these conditions and apply them at all times, and upon request make them known to any hirer. The driver must also make themselves familiar with the Byelaws, apply them at all times when driving a hackney carriage, and upon request make them known to any hirer.

Interpretation

Throughout these conditions -

“The Act” means the Local Government (Miscellaneous Provisions) Act 1976.

“Authorised Officer” means any officer of the Council authorised in writing by the Council for the purposes of these conditions.

“Borough” means Havant Borough Council's administrative area.

“Byelaws” means those in respect of Hackney Carriages made by Havant Borough Council under section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875.

“The Council” means Havant Borough Council.

“Driver” means a person licensed to drive a hackney carriage or private hire vehicle.

“Drivers Badge” means a badge issued by the Council under section 54 of the Act.

“Hackney Carriage” has the same meaning as in the Town Police Clauses Act 1847.

“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.

“Taximeter” means any device for calculating the fare to be charged in respect of any journey in a Hackney Carriage by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.

“Vehicle” means any vehicle licensed for use as a hackney carriage or private hire vehicle.

Driver Badge

1. The driver must at all times when driving a licensed vehicle for hire or reward, wear the driver’s badge issued by the Council in a prominent visible place on the outer clothing. Drivers may wear their badge in the following ways:
 - A clip badge attached to clothing in a prominent position, or
 - A plain or Council issued lanyard around the neck.
2. The driver’s badge remains the property of Havant Borough Council. In the event that the driver’s licence is suspended or revoked, the driver’s badge and paper licence must be returned to the Council within 7 days of a written notice or upon the demand of an authorised officer. Failure to return the badge is an offence with a penalty of a Level 1 fine.
3. If the badge is lost, stolen or damaged so that it is unserviceable, the licence holder shall without delay apply to the Council for a replacement badge, paying the appropriate fee. Where a badge has been stolen, the driver must report this to the Police.
4. The driver shall not cause or permit his badge to be worn by any other person.

Conduct of licensed drivers

5. The driver must at no time cause or allow the noise emitted by any radio or in car entertainment in the vehicle to be a source of nuisance or annoyance to any person, whether they are inside or outside the vehicle.
6. The driver shall make themselves familiar with the topography of the district and, if requested to do so, satisfy the Council as to their knowledge of the district.
7. The driver shall not allow any hackney carriage vehicle to be left unattended without due cause whilst it is standing or plying for hire.
8. In the event of a vehicle breakdown or other mechanical failure whilst undertaking a hiring, the driver shall ensure that alternative transport, in the form of another suitably licensed driver and vehicle, is secured without delay to complete the journey.
9. The driver shall not convey or permit to be conveyed in such vehicle any greater number of persons than the number of the persons specified on the vehicle licence plate attached to the outside of the vehicle.

10. The driver shall not at any time by calling out or otherwise, harass any person to hire the vehicle and shall not make use of the services of any other persons for this purpose.
11. The driver when hired to drive to any destination, subject to any direction given by the hirer, proceed to that destination by the shortest available route, and shall not, without reasonable cause, prolong in distance or time any journey for which the vehicle is hired.
12. The driver when hired or agreed to be in attendance with their vehicle at an appointed time and place, attend punctually with such vehicle unless delayed or prevented by some sufficient cause beyond their control.
13. The driver must provide a prompt, efficient and reliable service at all times and comply with all reasonable requirements of any person hiring or being conveyed in the vehicle.
14. The driver must take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from their vehicle and offer passengers such assistance as may be required such as with luggage or any mobility aids or wheelchair.
15. The driver must have good standards of personal hygiene and comply with the dress code detailed in the Hackney Carriage and Private Hire Policy at all times.
16. The driver must behave in a civil, courteous and orderly manner at all times, including in their dealings with the general public, private hire operators, vehicle proprietors and other drivers of licensed vehicles, as well as the Council's Authorised Officers.
17. The driver must comply with the Hackney Carriage and Private Hire Policy regarding working with children and vulnerable adults.
18. The driver must at all times when driving a licensed vehicle ensure that such vehicle is maintained in a roadworthy and clean condition.
19. The driver must not smoke, vape or use e-cigarettes or any similar device or substance, or permit another other person to do so, in a licensed vehicle at any time.
20. The driver must not transport in the vehicle more persons than the number specified on the plate attached to the vehicle.
21. The driver of a wheelchair accessible hackney carriage or private hire vehicle shall not refuse to carry a wheelchair user when either plying for hire or when instructed to do so by their private hire operator, unless they hold a valid exemption issued by the Council. No additional charge shall be made for the carriage of a wheelchair user and/or their wheelchair.

22. Any animal belonging to or in the custody of a fare paying passenger may be carried in a hackney carriage or private hire vehicle at the driver's discretion, provided that the animal is appropriately secured in the vehicle at all times.
23. The driver of a hackney carriage or private hire vehicles shall not refuse to carry an assistance dog, provided it is accompanied by a fare paying passenger, unless they hold a valid exemption issued by the Council. No additional charge shall be made for the carriage of an assistance dog.
24. The driver must immediately after the end of any hiring of a licensed vehicle, or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left there. If any property is found or given to the driver, having been left in the licensed vehicle, the licence holder shall comply with the Lost Property Guidance as per Appendix F to the Council's Hackney Carriage and Private Hire Licensing Policy.
25. The driver will, if requested by the hirer of a hackney carriage or private hire vehicle, provide a written receipt for the fare paid.
26. If the driver at any time during the life of the licence becomes aware of any medical condition which may affect their fitness to drive licensed vehicles they shall immediately (i.e., within 24 hours) give notice in writing to the Council and shall, if required, submit to an examination by a registered medical practitioner of the Council's choice to ascertain their fitness to be licensed.
27. The driver shall notify the Council in writing 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, including the issue of a police fixed penalty notice. An arrest for any of the offences within this scope will result in a review by the Council as to whether the licence holder continues to be fit and proper to hold a licence.
28. The driver shall notify the Council in writing within 7 days of any conviction not detailed in 25 above.
29. If at any time during the life of the licence the licence holder is the subject of a driving ban imposed by a Court of Law, they shall immediately (i.e., within 24 hours) give notice in writing to the Council and surrender their driver's badge.
30. The driver must notify the Council in writing within 7 days of the details of any change of name and/or address.
31. The driver shall not demand from the hirer of a private hire vehicle a fare in excess of any previously agreed prior to the journey began. Where the vehicle is fitted with a taximeter and no fare has been agreed prior to the journey beginning, the taximeter must be used, and the fare shall be the amount shown on the taximeter.

32. Drivers of private hire vehicles shall not stop on or near an appointed hackney carriage rank at any time in circumstances that could give the impression that the vehicle is plying for hire.

Appeals

33. The driver may appeal against the imposition of any of these conditions to the Magistrates Court.

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APPENDIX B

Hackney Carriage Vehicle Conditions

These conditions are made under section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976, by Havant Borough Council with respect to hackney carriage vehicles licensed by the Council.

The licence holder must observe and carry out the requirements of the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976, and any order or regulation made thereunder or the requirements of any other Act of Parliament or orders, regulations or bye-laws made thereunder relating to hackney carriage vehicles.

Interpretation

Throughout these conditions -

“**Authorised Officer**” means any officer of the Council authorised in writing by the Council for the purposes of these conditions.

“**Borough**” means Havant Borough Council’s administrative area.

“**Byelaws**” means those in respect of Hackney Carriages made by Havant Borough Council under section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875.

“**The Council**” means Havant Borough Council.

“**Hackney Carriage**” has the same meaning as in the Town Police Clauses Act 1847.

“**Licence Holder**” means the holder of a Hackney Carriage Vehicle Licence.

“**Taximeter**” means any device for calculating the fare to be charged in respect of any journey in a Hackney Carriage by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.

“**Vehicle**” means any vehicle licensed for use as a hackney carriage.

“**Vehicle Licence Plate**” means the hackney carriage licence plate issued by the Council to be displayed on the outside rear of the vehicle.

Licence Plates

1. The licence holder shall ensure that the vehicle licence plate provided by the Council, bearing the number of the licence granted in respect of the vehicle, is permanently fixed to the rear of the vehicle to the satisfaction of an Authorised Officer. The vehicle licence plate shall be fitted to the off-side rear of the vehicle and be clearly visible from the rear of the vehicle.
2. The licence holder shall ensure that the vehicle licence plate is not concealed from public view while the vehicle is being used for hire purposes or standing or plying for hire. This includes wilful or negligible concealment, damage or defacement.
3. The licence holder shall immediately notify the Council in the event that the vehicle licence plate is lost, stolen or damaged in such a way that it is rendered unserviceable, and pay the required fee for a replacement plate. Where a plate has been stolen, the driver must report this to the Police.
4. In the event of vehicle licence expiry, lapse, suspension, or revocation, the licence holder shall return the vehicle licence plate to the Council within 7 days of such expiry, suspension, or revocation.

Vehicle Standards

5. The licence holder shall ensure that the vehicle is maintained and serviced in accordance with the manufacturer's recommendations, in addition to any requirements under the Council's Policy.
6. The licence holder shall ensure that the vehicle and its fittings are, at all times when the vehicle is available for hire or being used as a hackney carriage, be safe, clean and tidy and comply with the relevant DVSA vehicle safety standards.
7. The licence holder shall ensure that a dry powder or BCF (or similar) fire extinguisher is carried in the vehicle in such a position that it is readily available for use at all times. On renewal of the vehicle licence, the fire extinguisher shall be marked with the plate number of the vehicle to which it relates, using permanent marker or similar.
8. The licence holder shall ensure that an indexed street map of the Borough is carried and available in the vehicle at all times. On renewal of the licence, the map shall be marked with the plate number of the vehicle to which it relates, using permanent marker or similar.

Taximeter

9. The licence holder shall ensure that any taximeter fitted in the vehicle is maintained in good working order at all times.

10. The licence holder shall notify the Council of any replacement taximeter fitted to the vehicle within 7 days of such replacement and provide evidence that the taximeter has been calibrated and tested by a competent taximeter agent.

Display of Information

11. The licence holder shall ensure that a notice supplied by the Council, bearing the licence number and contact details of the Council, are displayed in the top nearside of the windscreen and the nearside passenger door window. The licence number shall be displayed so that it is clearly visible to people boarding or approaching the vehicle from the outside.
12. The licence holder shall ensure that a roof light or 'top box' bearing the word 'TAXI' fitted to the roof of the vehicle, which may be illuminated only when the vehicle is plying or standing for hire.
13. The licence holder shall ensure that no other written or printed material, including advertisements, are displayed on the vehicle except with the consent of the Council.
14. The licence holder shall ensure that a notice of maximum fares to be charged for any hiring of the vehicle is prominently displayed in the vehicle at all times that it is available for hire or being used as a hackney carriage.

Appeals

15. The licence holder may appeal against the imposition of any of these conditions to the Magistrates Court.

NOTE

Licence holders are reminded that Hackney Carriages are also regulated under bye laws made by the Borough of Havant on 18 June 1976 under Section 68 of the Town Police Clauses Act 1847, Section 171 of the Public Health Act 1875, and Section 84 of the Hampshire County Council Act 1972.

APPENDIX C

Private Hire Vehicle Conditions

These conditions are made under section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976, by Havant Borough Council with respect to private hire vehicles licensed by the Council.

The licence holder must observe and carry out the requirements of the Local Government (Miscellaneous Provisions) Act 1976, and any order or regulation made thereunder or the requirements of any other Act of Parliament or orders, regulations or bye-laws made thereunder relating to private hire vehicles.

Interpretation

Throughout these conditions -

“**The Act**” means the Local Government (Miscellaneous Provisions) Act 1976.

“**Authorised Officer**” means any officer of the Council authorised in writing by the Council for the purposes of these conditions.

“**Borough**” means Havant Borough Council’s administrative area

“**The Council**” means Havant Borough Council

“**Licence Holder**” means the holder of a Private Hire Vehicle Licence.

“**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.

“**Vehicle**” means any vehicle licensed for use as a private hire vehicle.

“**Vehicle Licence Plate**” means the licence plate issued by the Council to be displayed on the outside rear of the vehicle.

Licence Plates

1. The licence holder shall ensure that the vehicle licence plate provided by the Council, bearing the number of the licence granted in respect of the vehicle, is permanently fixed to the rear of the vehicle to the satisfaction of an Authorised Officer. The vehicle licence plate shall be fitted to the off-side rear of the vehicle and be clearly visible from the rear of the vehicle.
2. The licence holder shall ensure that the vehicle licence plate is not concealed from public view while the vehicle is being used for hire purposes. This includes wilful or negligible concealment, damage or defacement.

3. The licence holder shall immediately notify the Council in the event that the vehicle licence plate is lost, stolen or damaged in such a way that it is rendered unserviceable, and pay the required fee for a replacement plate. Where a plate has been stolen, the driver must report this to the Police.
4. In the event of vehicle licence expiry, lapse, suspension, or revocation, the licence holder shall return the vehicle licence plate to the Council within 7 days of such expiry, suspension, or revocation.

Vehicle Standards

5. The licence holder shall ensure that the vehicle is maintained and serviced in accordance with the manufacturer's recommendations, in addition to any requirements under the Council's Policy.
6. The licence holder shall ensure that the vehicle and its fittings are, at all times when the vehicle is available for hire or being used as a private hire vehicle, be safe, clean and tidy and comply with the relevant DVSA vehicle safety standards.
7. The licence holder shall ensure that a dry powder or BCF (or similar) fire extinguisher is carried in the vehicle in such a position that it is readily available for use at all times. On renewal of the vehicle licence, the fire extinguisher shall be marked with the plate number of the vehicle to which it relates, using permanent marker or similar.
8. The licence holder shall ensure that an indexed street map of the Borough is carried and available in the vehicle at all times. On renewal of the licence, the map shall be marked with the plate number of the vehicle to which it relates, using permanent marker or similar.

Display of Information

9. The licence holder shall ensure that notices supplied by the Council, bearing the licence number and contact details of the Council, are displayed in the top nearside of the windscreen and the nearside passenger door window. The licence number shall be displayed so that it is clearly visible to people boarding or approaching the vehicle from the outside.
10. The licence holder shall not display on the vehicle any sign or notice:
 - i. Which consists of or includes the word 'taxi' or 'cab', whether in the singular or plural and whether alone or as part of another word, or
 - ii. Which consists of the words 'for hire' or any other wording that suggests that the vehicle is presently available to take up any passengers wishing to hire it or would be so available if not already hired.
11. The licence holder shall ensure that no other written or printed material, including advertisements, are displayed on the vehicle except with the consent of the Council.

12. Where the vehicle licence has been granted an exemption from displaying a vehicle licence plate, the licence holder shall ensure that a notice supplied by the Council is affixed to the bottom-left of the vehicle's windscreen and that a vehicle licence plate is carried in the vehicle at all times.
13. The licence holder shall ensure that a minimum of two 'no smoking' signs are displayed on or inside the vehicle, where passengers are able to clearly see them.

Appeals

14. The licence holder may appeal against the imposition of any of these conditions to the Magistrates Court.

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APPENDIX D

Private Hire Operator's Conditions

These conditions are made under section 55(3) Part II of the Local Government (Miscellaneous Provisions) Act 1976, by Havant Borough Council with respect to persons licensed to operate private hire vehicles in the Council area.

Interpretation

Throughout these conditions -

“The Act” means the Local Government (Miscellaneous Provisions) Act 1976.

“Authorised Officer” means any officer of the Council authorised in writing by the Council for the purposes of these conditions.

“Borough” means Havant Borough Council's administrative area.

“The Council” means Havant Borough Council.

“Driver” means a person licensed to drive a hackney carriage or private hire vehicle.

“Hackney Carriage” has the same meaning as in the Town Police Clauses Act 1847.

“Operator” means the individual or business licensed by the Council to make provision for the invitation or acceptance of bookings for private hire vehicles.

“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.

“Vehicle” means any vehicle licensed for use as a hackney carriage or private hire vehicle.

Operator licence

1. The operator must make themselves familiar with the conditions, apply them at all times, and upon request make them known to any hirer.
2. The operator must not trade under any name for private hire purposes unless the name has been approved by the Council and has been entered on the Private Hire Operator's Licence issued by the Council.
3. The operator must inform the Council of any proposed change of trading name prior to any change. In changing the name, the operator may not use any name already in use within the Council area, or a name that so closely

resembles a name already in use that it is deemed by the Council likely to confuse customers.

4. The operator shall maintain use of an operating address within the Borough **for the purposes of an Authorised Officer inspecting records at this address by appointment.** ~~and provide evidence of the right to occupy this address on request by an Authorised Officer.~~
5. The operator must inform the Council of any proposed change of operating address prior to any move. ~~as this licence is specific to the address shown on it.~~ Operators must be aware that planning permission is usually required for the operation of a private hire business where the number of vehicles to be operated exceeds one. This licence does not allow the use of the premises as a private hire operator's base in the absence of planning permission.
6. The operator must notify the Council in writing of any changes in ownership, partnership or directorship of the business within 7 days.

Conduct of licensed operators

7. The operator shall provide a prompt, efficient, courteous and reliable service to members of the public and ensure that those who work for or with them do the same.
8. The operator shall behave in a civil and orderly manner at all times in their dealings with the general public, customers, vehicle proprietors, drivers and Authorised Officers.
9. The operator must notify the Council in writing 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 will result in a review by the Council as to whether the licence holder continues to be fit to hold the licence. Where the operator is a partnership or company, this requirement shall be applied to each partner or director.
10. The operator shall notify the Council in writing within 7 days of any conviction not detailed in **89** above.
11. The operator shall notify the Council in writing of any complaints received concerning the conduct of a driver or the condition of a vehicle, within 7 days of receipt of such a complaint.
12. The operator shall ensure that they comply with their own complaints procedure, as required by the Hackney Carriage and Private Hire Policy. Any proposed changes to the complaints' procedure must be provided to the Licensing Authority at least 7 days in advance of making such change.

13. The operator shall not refuse any booking made nor apply any additional charge for carrying a wheelchair user without reasonable cause.
14. The operator shall not refuse any booking nor apply any additional charge for carrying an assistance dog without reasonable cause.

Vehicles and drivers

15. The operator shall not employ any vehicle or driver in the course of a private hire business unless that vehicle and driver are licensed for that purpose by the Council that issued the private hire operator's licence.
16. The operator shall take all reasonable steps to ensure that the Council's licence conditions in respect of vehicles and drivers under their control are properly observed.
17. The operator shall not allow a greater number of private hire vehicles to operate from their premises than the number for which planning permission has been granted by the Council.

Operating premises

18. The operator must have an operating address within the Havant Borough. This address shall be a bonafide residential or business address which the operator has the right to occupy for the purposes of their business.
19. The operator shall ensure that their bookings records are made available for inspection at their operating address **by appointment**.
20. Any public reception or waiting area must be kept in a clean and tidy condition at all times, and have adequate seating. The premises must conform to all other legal requirements i.e. planning permission and health and safety.
21. No person who is behaving in a disorderly manner shall be permitted to remain on the premises.

Records

22. The operator shall maintain, ~~at the premises for which they are licensed,~~ a record book or auditable computer record in a form satisfactory to the Council.
23. The operator shall record the following information for every booking of a private hire vehicle invited and/or accepted:
 - a) The name of the hirer
 - b) The specified pick-up location;
 - c) The time and date when the booking was taken;
 - d) The time and date of the pick-up;

- e) The registration number of the vehicle dispatched for the booking;
 - f) The name and licence number of the driver dispatched for the booking;
 - g) How the booking was made (i.e. telephone, email, app)
 - h) The name of any staff member who accepted the booking;
 - i) The name of any staff member who dispatched the vehicle;
 - j) The specified destination location;
 - k) The fare quoted, or whether the fare is to be charged by the taximeter, and in either case details of any additional fees charged;
 - l) The exact location of where the acceptance of the booking was taken (e.g., the operator premises, via mobile phone within the Borough etc).
24. Where the operator does not utilise staff members for the purposes of taking bookings or dispatching vehicles, there is no requirement to comply with (h) and (i) above.
25. The operator shall maintain a register of all drivers and vehicles which they operate, including copies of all licences issued in respect of said drivers and vehicles.
26. The operator shall notify the Council in writing within 7 days when a driver or vehicle starts or finishes working for them.
27. The operator shall retain a copy of the current insurance certificate / cover note in respect of each private hire vehicle which they operate.
28. The operator shall retain a copy of any plate exemption certificate granted in respect of any private hire vehicle that they operate.
29. The operator shall maintain a record of all staff members responsible for taking bookings and/or dispatching vehicles. Where the operator does not utilise staff members for these purposes, there is no requirement to maintain these records.
30. The operator shall ensure that any employment contract or similar, signed by a staff member responsible for taking bookings and/or dispatching vehicles, includes the requirement for that staff member to advise the operator of any convictions while they are employed in that role. Where the operator does not utilise staff members for these purposes, there is no requirement to comply with this condition.
31. Where the telephone number of the operator is diverted to a person outside of the operating premises at any time, details of all bookings accepted in this way shall be entered into the operator's records as per 223 above within 48 hours.
32. In the event that the operator outsources booking and dispatch functions to a third-party organisation, the operator shall retain a copy of that organisation's policy on protecting children and vulnerable adults.

33. The operator shall maintain all records for a period of at least 24 months. The operator shall produce such records on request to any Authorised Officer of the Council or any Police Officer.

Sub-contracting

34. Every contract for the hire of a private hire vehicle licensed by the Council shall be deemed to be made with the operator who accepted the booking for that vehicle, whether or not the operator provided the vehicle.
35. Where any bookings are sub-contracted either by the operator to another licensed operator, or are accepted by the operator from another licensed operator, a full record of the booking as per 223 must be made, and notes must be included stating the name and licensing authority of the other operator.
36. Where a booking is sub-contracted, the operator originally receiving the booking must inform the customer with whom the contract is made of the name of the operator to whom the booking has been sub-contracted.

Use of passenger carrying vehicles (PCV) licensed drivers

37. 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 shall not be permitted without the informed consent of the customer. The customer who makes the booking must be informed that a PCV licensed driver will be used.

Advertising

38. All signs or advertisements, in whatever form and wherever so displayed, shall not consist of or include the words "taxi" or "cab", whether in the singular or plural, whether alone or as part of another word, or any word of similar meaning or appearance.

Appeals

39. The operator may appeal against the imposition of any of these conditions to the Magistrates Court.

APPENDIX E

Penalty Points Scheme

1. Introduction

- 1.1. ~~Should a driver, vehicle proprietor or operator commit an offence, or fail to comply with the policy and/or licence conditions, an investigation will be undertaken and, where appropriate, enforcement action taken in line with the Hackney Carriage and Private Hire Licensing Policy.~~
- 1.2. ~~The Hackney Carriage and Private Hire Licensing Policy identifies penalty points as a potential outcome for enforcement action. This document aims to outline how penalty points will be awarded and in which circumstances.~~
- 1.3. ~~The evidential standards for awarding penalty points shall be 'on the balance of probabilities', as opposed to the criminal standard of 'beyond all reasonable doubt.'~~
- 1.4. ~~Where penalty points are awarded, the case officer will advise the licence holder in writing as soon as practicable after completion of any investigation. The written notification will include details of the number of penalty points awarded, the reason for penalty points being awarded, and details of the right to appeal to within 14 days of notification of the penalty points being awarded. Any appeals regarding the issuing of penalty points will be referred to the Licensing Sub-Committee for consideration, who have the discretion to award a greater number of points than displayed on the tariff, if the decision is upheld.~~
- 1.5. ~~The tariff shown in this document is intended as a guide for licence holders and the Licensing Authority in determining the appropriate number of penalty points to be awarded in varying circumstances. The Council reserves the right to depart from the tariff, awarding fewer or more penalty points, where it is considered reasonable and proportionate to do so in the individual circumstances.~~
- 1.6. ~~The penalty points scheme does not prejudice the Council's ability to take other actions. The Council may also issue written warnings, suspend or revoke the licence, refuse to renew a licence or take other action without having issued penalty points in the first instance. In all cases actions will be in line with the Council's Environmental Health Enforcement Policy with the overarching aim of protecting public safety.~~
- 1.7. ~~Penalty points remain 'current' for 36 months from the date the penalty points were issued. The period is on a roll forward basis, to allow any older points to be considered as spent and therefore excluded from the running total recorded against any individual licence holder. In all cases, a record will remain against the driver's record regardless of whether penalty points have been issued or have become spent.~~

1.8. ~~Where a licence holder accumulates 12 penalty points or more in any 36-month period, the matter will be referred to the Council's Licensing Sub-Committee to decide whether the licence holder remains a fit and proper person to hold a licence. The Licensing Sub-Committee have discretion to suspend or revoke a licence, issue a warning letter, or require the driver to undertake remedial action i.e. completion of a training course.~~

1.9. ~~The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.~~

2. ~~Penalty Points Tariff~~

PENALTY POINTS TARIFF				
Offence/Breach of Condition		Minimum Points Applicable	Driver	Vehicle Proprietor or Operator
1	Failure to notify the Council, in writing, 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, including the issue of a fixed penalty notice.	9	✓	✓
2	Refusal to accept hiring without reasonable cause.	6	✓	
3	Plying for hire by private hire driver.	6	✓	
4	Failure to return vehicle licence plate within 7 days after due notice following revocation or suspension of such licence.	6	✓	✓
5	Using a vehicle for which the licence has been suspended or revoked.	6	✓	✓
6	Charging or obtaining more than the agreed fare or the fare shown on the taximeter – hackney carriages only.	6	✓	✓
7	Charging or obtaining more than the agreed fare – private hire only.	6	✓	✓
8	Using unlicensed vehicle or vehicle without insurance or MOT.	6	✓	✓
9	Allowing unlicensed driver to drive a licensed vehicle.	6		✓
10	Carrying more passengers than stated on the vehicle licence.	6	✓	
11	Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques).	6	✓	✓

Offence/Breach of Condition		Minimum Points Applicable	Driver	Vehicle Proprietor or Operator
12	Using a non-approved or non-calibrated taximeter.	6	✓	✓
13	Interfering with a taximeter.	6	✓	✓
14	Obstruction of an authorised officer or police officer in the course of their duties.	6	✓	✓
15	Evidence of alcohol in vehicle.	6	✓	✓
16	Failure to carrying a wheelchair without requisite exemption.	6	✓	✓
17	Failure to carry an assistance dog without requisite exemption.	6	✓	✓
18	Displaying any signage or feature on private hire vehicle that may suggest that it is a hackney carriage.	6		✓
19	Failure to maintain proper records of private hire vehicle.	6		✓
20	Failure to keep or produce records of private hire bookings or other documents required to be kept or produced.	6		✓
21	Failure to notify, in writing, a change in medical circumstances.	6	✓	✓
22	Failure to notify the Council, in writing, within 7 days of any conviction not detailed above.	6		
23	Failure to display external/internal licence plate or signs as required.	4	✓	✓
24	Failure to produce relevant documents within timescale when requested by an authorised officer.	4	✓	✓
25	Failure to notify transfer of private hire or hackney carriage vehicle licence within 14 days.	4	✓	✓
26	Failure to behave in a civil, courteous and orderly manner.	4	✓	✓
27	Failure to observe Policy on spare wheel.	4	✓	✓
28	Evidence of smoking or use of electronic cigarette or another vaporising device in vehicle.	4	✓	✓
29	Unsatisfactory condition of vehicle, interior or exterior.	4	✓	✓
30	Failure to provide evidence of valid MOT upon request.	4	✓	✓
31	Failure to produce hackney carriage or private hire vehicle for inspection and/or testing when required.	4	✓	✓

Offence/Breach of Condition		Minimum Points Applicable	Driver	Vehicle Proprietor or Operator
32	Failure to provide proof of valid insurance cover when requested.	4		✓
33	Failure to wear driver's badge when working as a hackney carriage and/or private hire driver.	4	✓	
34	Failure to report, in writing, within 72 hours accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions.	3	✓	✓
35	Failure to notify, in writing, the Council of change of name and/or address within 7 days.	3	✓	✓
36	Failure to notify, in writing, the Council of any changes in ownership, partnership or directorship of the business within 7 days.	3		✓
37	Failure to produce on request records of driver(s) work activity.	3		✓
38	Failure to maintain records in a suitable form of the commencement and cessation of work of each driver each day.	3		✓
39	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares.	3	✓	
40	Unsatisfactory appearance of driver.	3	✓	
41	Failure to carry fire extinguisher.	3		✓
42	Displaying unsuitable or inappropriately sited signs or advertisements in the vehicle.	3		✓
43	Displaying advertisement(s) without the written agreement of the Council.	3		✓
44	Failure to use authorised roof light, or use of roof light in a way that breaches conditions – hackney carriage only.	3	✓	
45	Failure to observe rank discipline – hackney carriage.	3	✓	
46	Failure to give reasonable mobility assistance.	3	✓	
47	Failure to display fare card – hackney carriage only.	3	✓	✓
48	Failure to issue receipt on request.	3	✓	✓
49	Failure to attend punctually at appointed time and place without sufficient cause.	3	✓	✓

Offence/Breach of Condition		Minimum Points Applicable	Driver	Vehicle Proprietor or Operator
50	Leaving Hackney Carriage unattended on a rank.	3	✓	
51	Failure to comply with licence conditions.	3	✓	✓
52	A licensed vehicle with a bald tyre.	2 per tyre	✓	✓
53	Unsatisfactory conduct of licensed driver, vehicle proprietor or operator.	1	✓	✓
54	Points awarded by Licensing Sub-Committee where matters referred to them for decision.	1	✓	✓

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APPENDIX F

Lost Property Guidance for Drivers

You should check your vehicle after each journey is undertaken to check for lost property. Check the seats, footwells, boot and other storage compartments for any property that has been left behind by passengers.

The Police will not normally take in lost property, unless it meets the criteria below:

If the item has a serial number, hand it into a police station, police officer or PCSO so that the owner can be traced, and the item otherwise dealt with. Items the police can help with include mobile phones, MP3 players, computers, tablets, and any other item capable of containing data.

If the item has a person's name or other personal information on it (e.g., a passport, driving licence etc), follow the instructions on the reverse of the item to return it to the relevant authority or organisation (e.g., return passports to HM Passport Office). If the item has the individual's address on it, you could post it to them. If you're unable to do either of these things, hand it into a police station, police officer or PCSO.

If the item is valuable (worth over £500), you should make reasonable enquiries to reunite the item with its owner. If you have collected or dropped off the customer at a public place, such as a restaurant or a pub, you could leave your contact details with the staff. If you can't find the owner, hand it into a police station, police officer or PCSO.

If the item is a controlled drug or weapon, you must hand it into a police station, police officer or PCSO immediately. Do not undertake any further journeys whilst the item remains in your vehicle, as you could be guilty of an offence.

If the item is of low value and cannot be directly identified to a person (e.g., umbrellas), you should make reasonable enquiries to reunite the item with its owner. If you have collected or dropped off the customer at a public place, such as a restaurant or a pub, you could leave your contact details with the staff. You could also try posting on local Facebook groups or similar, to see if someone has lost the item that you have found. If you can't find the owner, you may dispose of the item after a reasonable period.

Your private hire operator may have a procedure for collecting and recording lost property at their operating address. Check with this with them, as they may have the facilities to store items of low value / items that cannot be directly identified to a person. They may also have the contact details of the individual who booked the vehicle, enabling them to contact the passenger(s) and reunite them with their property.

Further guidance on lost and found property can be found on Hampshire Constabulary's website: <https://www.hampshire.police.uk/ro/report/lp/lost-or-found-property/?stepid=1-2-2-1&rid=5>

Lost Property Guidance for Operators

If you have sufficient space at your operating address, you may choose to have a procedure in place for storing and recording lost property found by drivers in vehicles that you operate. This is not mandatory but may give your customers more confidence in booking vehicles operated by you. Consider the following:

Recording Items:

Any item handed in should be logged in the lost property log book, with the date and time that the item was found, a description of the item, the details of the vehicle in which the item was found, and details of where the item is stored.

The lost property log should be checked regularly by a senior member of staff to ensure that no items are held for too long a period of time or signed out without authorisation.

Storing Items:

Valuables such as mobile phones, wallets, bank cards, cash and jewellery should be stored in a secure place such as a locked box or safe, to whom limited people have access. This should be a temporary location, used only for storing valuable items prior to taking them to the police station.

Items such as clothing, umbrellas, shopping bags etc could be stored in a large box or crate in a secure room such as the manager's office.

Disposal of Property:

Consider how long you can reasonably store lost property at your operating address (not including items handed in to the police). A maximum of 28 days is generally a good rule. After this period has passed, the property may be disposed of.

Reclaiming Items:

In order for property to be reclaimed, you may require a detailed description of the item(s) and/or proof of identity. If an item is reclaimed, you should ensure that this is logged in the lost property log book.

Further guidance on lost and found property can be found on Hampshire Constabulary's website: <https://www.hampshire.police.uk/ro/report/lp/lost-or-found-property/?stepid=1-2-2-1&rid=5>