

North Hertfordshire District Council

**Hackney Carriage and Private  
Hire Licensing Policy “A”  
(retaining zones)**

**Consultation: 14<sup>th</sup> June 2010 to 13<sup>th</sup> September 2010**

DRAFT (referred to LIC after consultation amendments)

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## **1 INTRODUCTION**

### **1.1 Powers and Duties**

1.1.1 This Statement of Licensing Policy is written pursuant to the powers conferred by the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on North Hertfordshire District Council (“the Council”) the duty to carry out its licensing functions in respect of hackney carriages and private hire vehicles.

### **1.2 Background to Policy**

1.2.1 The Council undertook a formal review of its policies and procedures in 2007 in preparation for the adoption of a new policy on 7<sup>th</sup> January 2008.

1.2.2 The Council gave a commitment to subject the policy to regular review. Best Practice Guidance (“the Guidance”) has now been re-issued by the Department for Transport and internal procedures have been further revised.

1.2.3 There is a recognition within the Guidance that unduly stringent licensing requirements are likely to unreasonably restrict the supply of hackney carriages and private hire vehicles by increasing the cost of their operation, or by restricting access to the trade. The Council is aware, therefore, that a too restrictive approach may be detrimental to the public interest and could have adverse safety implications.

1.2.4 In light of this and in order for the Council to maintain a modern, forward thinking licensing function, a full review of the Policy has been undertaken. This new Hackney Carriage and Private Hire Vehicle Licensing Policy (“the Policy”) is intended to ensure that both the trade and the public have a document that fully explains the licensing procedures.

### **1.3 Objectives**

1.3.1 Hackney carriages and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide safe, secure and comfortable transport, providing an on-request door to door service in various circumstances, including where public transport may not be available (for example in rural areas, or outside “normal” hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

In setting out its policy, the Council seeks to promote the following objectives:

- (i) The protection of the health and safety of the public;
- (ii) The protection of the environment;
- (iii) Assistance with public access to an efficient and effective public transport service, as part of the Council’s integrated transport policy;
- (iv) To provide and maintain a professional and respected hackney carriage and private hire trade, by continued monitoring and improvement of their required standards of service.

The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Council's wish to facilitate professional and responsible businesses, which display sensitivity to the wishes and needs of the general public.

- 1.3.2 When considering each of the sections/appendices detailed in this document, the Council have tried to ensure that each requirement is properly justified by the risk it seeks to address, balancing the cost of the requirement against the benefit to the public. When considering each section/appendix, the following question has been asked:

*“Are the costs of implementation commensurate with the benefits the policy is endeavouring to achieve?”*

- 1.3.3 The Council acknowledges that the current fleet of hackney carriages and private hire vehicles and drivers set a very high standard of appearance and performance of which the Council is proud. Whilst the number of occasions where suspension, revocation or prosecution are very rare, this Policy seeks to reinforce the existing high standards for all new licence holders joining the trade in North Hertfordshire and emphasise the full range of enforcement options available should they be needed.

#### **1.4 Departure from the Policy**

- 1.4.1 In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out therein.
- 1.4.2 Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits.
- 1.4.3 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. The Head of Housing and Public Protection Services may authorise a departure from the policy in accordance with this section if he considers it necessary in the specific circumstances and will advise members in Members Information Service

#### **1.5 Policy Duration**

- 1.5.1 This Policy will take effect from 7<sup>th</sup> January 2011 for a maximum period of five years.
- 1.5.2 Prior to the end of the five year period, a full consultation will be undertaken with a view to publishing a new Policy to take effect no later than 7<sup>th</sup> January 2016.
- 1.5.3 The Policy will be kept under constant review and amended as and when necessary to reflect changes in legislation and case law.

## **2 VEHICLES**

### **2.1 Zoning**

- 2.1.1 Due to the large geographical area of North Hertfordshire, with considerable rural areas surrounding four main towns, hackney carriage vehicle licences have historically been issued in zones (Baldock, Hitchin, Letchworth, Royston

and Knebworth). The licensing of all five separate zones is undertaken by the licensing authority of North Hertfordshire District Council, although each separate zone is an individual District in its own right. For ease of reference these are referred to as zones within the Policy to avoid confusion with the District as a whole.

- 2.1.2 The historical zones have been the towns of Baldock, Hitchin, Knebworth, Letchworth and Royston, with the surrounding villages added to the appropriate zone. The existence of zones stems from the local government reorganisation in 1974 under the terms of the Local Government Act 1972.
- 2.1.3 Hackney carriages may only ply for hire within the zone in which they are licensed.
- 2.1.4 Best Practice Guidance issued by the Department for Transport recommends the removal of hackney carriage zones, indeed the majority of Districts no longer have zones. The zoning system of licensing hackney carriages has operated successfully in North Hertfordshire and will, therefore, continue. A summary of the zones, including rural villages, is included in **Appendix K**. This content of this appendix is not fixed and can be amended to include other rural areas as necessary.
- 2.1.5 The zoning system does not apply to private hire vehicles which are licensed to operate in the District of North Hertfordshire.

## **2.2 Limitation of Numbers**

- 2.2.1 No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.
- 2.2.2 The grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages, if the Licensing Authority is satisfied that there is no significant unmet demand for the services of hackney carriages (within the zone or district to which the licence would apply).
- In the event of a challenge to a decision to refuse a licence, it would, therefore, have to be established that the Licensing Authority had reasonably been satisfied that there was no significant unmet demand.
- 2.2.3 In the event that the Council believed there to be no unmet demand, they would undertake extensive consultation with all sections of the community prior to implementing any restrictions.
- 2.2.4 The Council currently has no policy to limit the number of hackney carriages which may be licensed within the District. This does not, however, imply that there is to be no regulation of hackney carriages, as the Council intends that quality controls shall be rigorously maintained in relation to both the drivers and the vehicles.

## **2.3 Specifications and Conditions**

- 2.3.1 Licensing authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles.
- 2.3.2 The Best Practice Guidance suggests that local licensing authorities should

adopt the principle of specifying as many different types of vehicle as possible. They are, however, encouraged to make use of the “type approval” rules within any specifications they determine.

- 2.3.3 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriages and private hire vehicles provide a necessary service to the public, however, it is appropriate to set standards for the external and internal condition of the vehicle, provided that the standards are reasonable and proportionate.

**Appendix A** sets out the minimum standards of vehicle specification, which apply in respect of all licensed vehicle applications.

- 2.3.4 In general, vehicles will be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles. Purpose-built vehicles are amongst those which the Council will licence as hackney carriages.

## 2.4 Accessibility

- 2.4.1 The Council is committed to social inclusion and ensuring a wide variety of opportunities is available to those with mobility difficulties in order to enjoy a high quality of life. It fully supports the view of the Equality and Human Rights Commission that,

*“Making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities. Their access to education, shopping, employment, healthcare, as well as social and family life is significantly improved when journeys become accessible.”*

For this reason, the Council considers it important that people with disabilities have access to all forms of public transportation and will keep this section of the policy under review through periodic Disability Impact Assessments.

- 2.4.2 Drivers who, for medical reasons are unable to accept wheelchair passengers, or guide/hearing dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence. Exemption certificates, which show the photograph of the driver must be displayed in the vehicle at all times the driver is working.

- 2.4.3 It is arguable that different accessibility considerations should apply between hackney carriages and private hire vehicles in that hackney carriages can be hired in the street or at a rank, by the customer dealing directly with a driver. Private hire vehicles, however, can only be booked through an operator. It is considered particularly important that a person with a disability should be able to hire a hackney carriage with the minimum delay or inconvenience. Having an acceptable proportion of accessible hackney carriages available helps ensure that this is possible. The Council will, therefore, actively encourage the licensing of sufficient accessible vehicles and have regard to the requirements of the Equality Act 2010 and all relevant equalities and disability legislation.

2.4.4 The private hire trade should, however, be aware of a good practice guide produced by the Equality and Human Rights Commission, as private hire operators also have a duty under the Equality Act 2010 and other legislation to ensure disabled people are not discriminated against or treated less favourably.

## 2.5 Environmental Considerations and Maximum Age of Vehicles

2.5.1 The Best Practice Guidance reminds licensing authorities that it is perfectly possible for an older vehicle to be in good condition and that the setting of an age limit beyond which they will not licence vehicles may be arbitrary and disproportionate. The limits set by the Council in **Appendix A** paragraph 3 are considered necessary and proportionate to protect public safety and the other objectives of this Policy. It is, nevertheless, accepted that a greater frequency of testing may be appropriate for older vehicles. Details of testing requirements are specified in **Appendix A** of this Policy.

2.5.2 Local licensing authorities are, however, also advised to consider how far their vehicle licensing policies can and should support any local environmental initiatives by, perhaps, setting stricter vehicle emissions standards (as recommended by the Best Practice Guidance) or promoting cleaner fuels.

2.5.3 The Council have given careful consideration to the recommendation in the Guidance that, in the interests of the environment, tougher emissions standards should be introduced for all licensed vehicles. As part of the documentation required by the Council to complete an application for a vehicle licence, the applicant must supply a copy of the MOT emission test certificate. By constantly reviewing emission test certificates, the Council are aware that all currently licensed vehicles are passing the emission test by a significant margin. The Council, therefore, currently have no plans to introduce any stricter emission test than that required for an MOT.

2.5.4 The Council considers its responsibility in protecting the environment to be a predominate factor within licensing policy. As a corporate body, the Council has signed up to the Nottingham Declaration to tackle climate change and has "green issues" as one of its strategic objectives. Emission testing is an integral part of vehicle testing and will remain under constant review in light of the Guidance. The reasonable and proportionate maximum age of vehicles set out in **Appendix A** reflects the need to ensure vehicles meet the latest environmental standards, precluding older less efficient vehicles from being licensed..

2.5.5 Clearly emissions from hackney carriages and private hire vehicles could be further reduced through education and raising awareness of environmental issues. Simple measures such as:

- (i) better and more frequent vehicle maintenance and servicing; or
- (ii) switching off engines when stationary or idling, particularly at hackney carriage ranks,

can make a significant environmental impact considering the number of licensed vehicles. The Hackney Carriage and Private Hire Consultative Forum have an important role to play in raising awareness of environmental issues.

- 2.5.6 **Appendix A** makes it clear that LPG conversions to vehicles are acceptable to the Council.
- 2.6 Vehicle Testing**
- 2.6.1 An MOT pass certificate, from an inspection carried out by the Council's nominated garage(s), must be produced for all vehicles that are over one year old. Subsequent MOT pass certificates must be produced annually. When providing an MOT test certificate, the applicant must also provide the emission test certificate.
- 2.6.2 In addition to the MOT testing, the vehicle must also be mechanically tested and inspected by the Council's nominated garage. This process is referred to as "the Engineer's Report" or "Certificate of Compliance". When required to produce testing documentation an MOT pass certificate and an Engineer's Report pass certificate must be produced.
- 2.6.3 The licence of any vehicle which fails its inspection requirements will be automatically suspended until such time as the vehicle has been re-examined and the necessary pass certificates obtained.
- 2.6.4 Vehicle testing arrangements are currently exclusively through one vehicle inspection facility to ensure consistency of approach, in particular considering the subjectivity involved in an Engineer's Report. The Council will keep these arrangements under review, bearing in mind the increasing number of licensed vehicles and the Council's "green issues" strategic objectives. Any amendment to the Council's inspection facility will be advised to all licence holders in writing.
- 2.6.5 With the safety of the public being a predominate factor of this Policy, all vehicles involved in an accident, however minor, will be required to obtain the Council's nominated inspection facility's approval to continue operating. In the case of a vehicle that would fail an Engineer's Report or MOT, that vehicle cannot continue to operate as a hackney carriage or private hire vehicle until such time as the vehicle would meet the testing requirements.
- In the case of only cosmetic damage, a timescale for repair will be set by the Council. At the end of the set timescale the vehicle must be presented to the Council's nominated inspection facility. If the vehicle would fail an Engineer's Report, that vehicle cannot continue to operate as a hackney carriage or private hire vehicle until such time as the vehicle would meet the testing requirements.
- 2.6.6 In addition to the above testing requirements, the Council will undertake its own program of inspections between formal MOT tests. These tests will be undertaken at the Council Offices, or any other location as advised by a Council Officer, and will ensure that vehicles maintain the high standard of Engineer Report testing throughout its licence period. Where an Officer is unsure as to a vehicle's compliance, the vehicle will be referred to the Council's nominated testing station, or any other garage at the Officer's discretion, for a formal assessment. Where the testing requirements are not met, the Officer may either agree a period of time for rectification and re-inspection, or suspend the vehicle until rectification and re-inspection has occurred.



## **2.7 Signage and Advertising**

2.7.1 Within the District of North Hertfordshire, hackney carriages are required to display Licence Plates externally on the rear of the vehicle. This is a key feature in helping to identify vehicles that are properly licensed. In order that hackney carriages are easily identifiable to members of the public, particularly if they need to register a complaint with the Council, it may be a requirement that internal Licence Plates are displayed.

All hackney vehicles, except for those with built-in roof signs, should carry illuminated roof-mounted signs indicating that they are a hackney carriage (see Appendix A18.1.1).

2.7.2 Similarly, and in order to differentiate between the two types of licensed vehicle, private hire vehicles will not be able to carry roof-mounted signs of any kind or display any references to the words "Taxi" or "Hackney Carriage".

In the case of the word Taxi being part of the company name, for example "XYZ Taxis", the company name may be displayed on the vehicle provided that there is also reference to the fact that the vehicle is a private hire vehicle and must be pre-booked.

2.7.3 Private hire vehicles are required to display Licence Plates externally on the rear of the vehicle. Exemptions may be given for certain types of private hire vehicle not to display the plate, however, a letter of exemption from the Council must be carried in the vehicle at all times. In the absence of a letter of exemption in the vehicle, a plate must be displayed on the rear of the vehicle.

When permission not to display a plate has been given, an unobtrusive 'tax disc' style licence must be displayed on the front windscreen.

Exemptions will only be given to vehicles used for executive hire, corporate contracts, school contracts or work of a similar nature. Vehicles that are used for a combination of 'exempt' work and normal private hire work will be required to display Licence Plates at all times when the exemption does not apply.

2.7.4 External advertising is permitted on both hackney carriages and private hire vehicles, but with the exception of Section 2.7.5 of this Policy, shall be confined to the doors and rear of the vehicle. All advertisements on the doors of private hire vehicles must contain a reference to the fact that the vehicle can only be pre-booked. (see Appendix A paragraph 19)

2.7.5 The only advertisement permitted on the windscreen or rear window of a vehicle must be in the form of a strip no wider than 10cm, positioned at the top or bottom of the window so that it does not obstruct the driver's view in any way.

## **2.8 Security/CCTV**

2.8.1 The hackney carriage and private hire trade provide a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance. CCTV cameras can be a valuable deterrent as well as protecting the driver from unjustified complaints.

2.8.2 It is not proposed that measures such as CCTV cameras should be required as part of the licensing regime, as it is considered that they are best left to the judgement of the owners and drivers themselves. The hackney carriage and private hire vehicle trades are, however, encouraged to consider the installation of CCTV cameras in their vehicles on a voluntary basis and it will then be incumbent upon the operator to handle relevant data gathered in an appropriate and secure manner.

## 2.9 Application Procedures

2.9.1 The application procedures for a hackney carriage or private hire vehicle licence are prescribed by The Council. Applications must be made on the specified application form in accordance with the application procedure set out in **Appendix C**.

## 2.10 Consideration of Applications

2.10.1 The Council will consider all applications on their own merit once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.

## 2.11 Grant and Renewal of Vehicle Licences

2.11.1 Hackney carriage or private hire vehicle licences will continue to be issued for a maximum one-year period from the date of grant, subject to the power to grant a licence for a shorter period, should this be appropriate in the circumstances.

The initial vehicle licence for vehicles less than one year old will usually be issued for the period up to the end of the month preceding the first anniversary of the date of first registration.

The initial vehicle licence for vehicles one year old or more will be issued for a period up to the end of the month of expiry of the MOT certificate.

2.11.2 Renewal application forms, appropriate fees and all supporting documentation as detailed in **Appendix C**, with the exception of the MOT, Emission Test and Engineer's Report, must be submitted at least twenty eight days prior to the expiry of the previous licence. Incomplete applications may be returned to the applicant for resubmission when complete. The MOT, Emission Test and Engineer's Report may be received as they become available, but no later than five working days prior to the expiry of the existing licence. A licence will not be renewed without all supporting documentation being received and satisfying the requirements of this Policy.

2.11.3 When submitting renewal applications, applicants should be aware that it may take up to five working days to process and issue a licence once all the necessary paperwork has been received. If a licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received. Every effort will be made to ensure continuity of trade, however, it would assist if applications and supporting documentation are received at the earliest opportunity.

2.11.4 A vehicle licence is issued to a specific vehicle, therefore, at the end of the vehicle's licensed period that particular licence ceases to exist and any new vehicle would be subject to the requirements of a new vehicle application, including being wheelchair accessible. What are often referred to as 'vehicle transfers' do not exist within the legislation and are therefore not offered by this Council.

To assist owners who wish to be able to change vehicles during the period of an existing licence, the Council will operate a 'replacement vehicle policy' This will allow the existing licence to be surrendered and a new one year licence granted for the replacement vehicle, without the need to meet the wheelchair accessible requirement and allowing the replacement vehicle to retain the same licence number.

2.11.5 Once the date of expiry of an existing licence has passed and a valid renewal application form and fee haven't been received, the licence automatically expires. All expired licences will be required to apply as a new licence application and meet all requirements of a new vehicle.

## 2.12 Stretched Limousines

2.12.1 Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work. The number of stretched limousines being imported, particularly from the United States, has been increasing. Their use generally includes all private hire work plus special occasions such as days at the races, stag/hen parties and children's birthday parties.

2.12.2 Licensing authorities have generally considered there to be some problems which prevents stretched limousines from being licensed including:

- many of the vehicles are capable of carrying more than eight passengers;
- many of them are left hand drive;
- many are fitted with all round darkened glass;
- most originate from the United States;
- many have been converted or modified after manufacture;
- due to their origin many parts may not be available making adequate maintenance difficult.

2.12.3 Most limousines are imported for commercial purposes and are, therefore, required to take a Single Vehicle Type Approval (SVA) test. They cannot be approved as Passenger Carrying Vehicles (PCV) because they cannot meet the required standards for the door arrangements and means of escape in an emergency. The SVA Scheme is an Inspection Scheme for vehicles that are not approved to British and European Standards and its purpose is to ensure that these vehicles meet modern safety standards and environmental standards before being used on public roads. When presented for SVA the vehicle is produced with a declaration that it will never carry more than eight passengers. The importer must inform any person who may use it of this restriction. Any subsequent purchasers must also be informed of the restriction.

2.12.4 The Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as a motor vehicle constructed or adapted to carry fewer than eight passengers, other than the hackney carriage or public service vehicle,

which is provided for hire with the services of the driver for the purposes of carrying customers. Section 48 of the 1976 Act requires that before a licence is granted the Authority must be satisfied that the vehicle is:

- (i) suitable in type, size and design for the use as a private hire vehicle;
- (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
- (iii) in a suitable mechanical condition;
- (iv) safe;
- (v) and comfortable.

2.12.5 Stretched limousines can be licensed for private hire work providing they may carry no more than eight passengers and meet the requirements of the Act. Possible exemptions under the Local Government (Miscellaneous Provisions) 1976 provide that nothing should:

- (i) apply to a vehicle used for bringing passengers or goods within a controlled district in pursuance of a contract for the hire of the vehicle made outside the district if the vehicle is not made available for hire within the district;
- (ii) apply to a vehicle while it is being used in connection with a funeral or a vehicle used wholly or mainly, by a person carrying on the business of a funeral director, for the purpose of funerals;
- (iii) apply to a vehicle being used in connection with a wedding.

2.12.6 Any stretched limousines, which are offered for private hire or which are not used for funeral and weddings do, of course, require a licence. Some operators of these vehicles have a wedding car licence insurance policy on the basis that the vehicle will be used largely during daylight hours, once or twice per week. Before licensing for private hire, therefore, a full policy for private hire purposes will be required.

2.12.7 In accordance with the Best Practice Guidance, all applications to licence stretched limousines as private hire vehicles will be treated on their own merits. It is, however, proposed that imported stretched limousine type vehicles:

- be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive; and
- be approved for licensing as private hire vehicles subject to the additional conditions detailed in **Appendix B**;

2.12.8 There are obviously concerns regarding the use of darkened glass in stretch limousines. It is, accordingly, considered that the glass in any windows surrounding the driver must be clear and the rearmost window must allow a minimum of 70% light transmission. (see Section A25.1 of this Policy)

2.12.9 It would be an offence under the Licensing Act 2003 to provide facilities for the sale of alcohol within a limousine. If a limousine is to be provided whereby part of the booking includes "free alcohol", the premises which accepts the booking and supplies the alcohol within the vehicle would need an appropriate licence under the Licensing Act 2003, otherwise a criminal offence would be

committed.

## **2.13 Contract Vehicles**

- 2.13.1 Previously, there was no requirement for a vehicle to be licensed where it was used for a contract with an organisation/firm for a period more than seven days for carrying passengers for hire or reward under a contract for the hire of the vehicle. This exemption only applied to the vehicle and driver subject to the contract and then only during the period of the contract. Any vehicle being used for a contract with one firm could not be used for any other contract or purpose during the period of that contract.

The Road Safety Act 2006 requires vehicles previously taking advantage of this exemption to become licensed private hire vehicles.

## **2.14 Funeral Vehicles**

- 2.14.1 There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals.

## **2.15 Wedding Vehicles**

- 2.15.1 A vehicle does not need to be licensed whilst it is being used in connection with a wedding. For clarity, the exemption applies only to services directly relating to the wedding service itself, for example transporting the bride and/or groom to the wedding service, from the service to the reception and from the service/reception to home. Transporting the married couple to other locations such as the airport would be considered to be licensable activity.
- 2.15.2 Written certification from the Council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement.

## **2.16 Courtesy Cars**

- 2.16.1 The Council takes the view that vehicles, which are used as “courtesy cars”, i.e. for transporting customers to and from garages, airports, hotels and night-clubs, without charge but with an obvious business benefit, are likely to need to be licensed under the private hire licensing scheme. Whilst there may not be a separate charge for using the vehicles, they are being supplied with a driver for a specific purpose which is likely to result in a ‘business benefit’, for example a customer using that particular business as opposed to one that doesn’t offer the same transport service.
- 2.16.2 The Council will proactively seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit and the Council considers that private hire vehicle licensing is necessary. In all such circumstances, the business will first be advised by the Council that they consider licensing as necessary.

2.17.3 In the event that the Council consider that a business within this section needs licensing, the Special Event Vehicle policy detailed at Section 2.20 will apply.

## **2.18 Ambulances and Other Patient Transport**

### **2.18.1 Ambulances**

All ambulances meeting the following requirements will be exempt from private hire vehicle licensing:

*“vehicles constructed to original manufacturer’s specification and equipped and used for the carriage of sick, injured or disabled people with a permanent rear compartment and means of conveying passengers in a recumbent position together with an attendant seat for use by accompanying medical professionals, readily identifiable as a vehicle used for the carriage of such people by being marked “Ambulance” on both sides.”*

### **2.18.2 Other Patient Transport**

Other patient transport services provided by either:

- iv) Primary Care Trusts, or
- ii) voluntary services,

that do not qualify for the exemption in 2.18.1 is likely to require licensing as a private hire vehicle.

2.18.3 In the event that the Council consider that a business within this section needs licensing, the Special Event Vehicle policy detailed at Section 2.20 will apply.

## **2.19 Voluntary Sector Transport**

2.19.1 The Council will assess each individual organisation on its own merits to determine whether or not it will require licensing as a private hire business. Whilst it is clear that the organisation is providing a service, it is less clear that such provision can be defined as operating a private hire business.

2.19.2 The Council will, however, seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit, or are using drivers whose services go beyond that of mere social kindness, and the Council considers that private hire vehicle licensing is necessary. In all such circumstances, the business and/or driver will first be advised by the Council that they consider licensing as necessary.

2.19.3 In the event that the Council consider that an organisation within this section needs licensing, the Special Event Vehicle policy detailed at Section 2.20 will apply.

## **2.20 Special Event Vehicles**

2.20.1 Any vehicle defined by this Policy as a Special Event Vehicle will be assessed on its own individual merits. Under certain circumstances, some or all of the requirements of this Policy may be waived.

2.20.2 Under circumstances where any requirement of this Policy is waived, written authority of exemption will be given by the Council. Unless such authority is given, all requirements of this Policy will apply.

## **2.21 Livery**

2.21.1 Historically, The Council have not required hackney carriages and private hire vehicles to conform to a Council Livery Policy.

2.21.2 The Council believe that the requirements of Section 2 of this policy ensure that hackney carriages and private hire vehicles are easily identifiable and that there is no current requirement for such a policy.

2.21.3 The Council will, however, keep the issue of livery under review. If the Council believe that it would be of benefit to the public to introduce livery, either in terms of specific vehicle colours and/or a Council logo, then a public consultation will be undertaken prior to any livery being introduced.

## **2.22 Seating in Multi-Passenger Vehicles**

2.22.1 The Council will licence vehicles for seating arrangements of up to eight passengers where all licensing requirements are satisfied.

2.22.2 All vehicles licensed to carry in excess of four passengers will only be licensed in accordance with the seating layouts detailed in **Appendix L**, unless the Original Manufacturer's Specification provides an alternative arrangement.

All seating arrangements not illustrated in **Appendix L** will be considered by the Council in relation to safety requirements, however, it should not be assumed that permission will automatically be granted.

## **2.23 Dual Plating**

2.23.1 The Council will not grant a hackney carriage or private hire vehicle licence for any vehicle already licensed by another licensing authority.

2.23.2 No hackney carriage can be licensed to ply for hire in more than one zone.

## **2.24 National Flags**

2.24.1 On the occasion of major sporting or non-sporting events (for example, a world cup, coronation, royal wedding, etc.) a maximum of one national flag may be flown on a licensed vehicle. The flag must be of a size and manufacture that will not obstruct the driver's view in anyway, nor endanger the safety of other road users or pedestrians. All flags are flown at the proprietor's own risk.

# **3 DRIVERS**

## **3.1 Licences**

3.1.1 The statutory and practical criteria and qualifications for a private hire driver are broadly identical to those for a hackney carriage driver. The sections

below, therefore, apply equally to private hire and hackney carriage drivers unless otherwise stated.

- 3.1.2 The Council requires that separate driver's licences ordinarily be held in respect of hackney carriage and private hire vehicles. The Council will offer drivers of either discipline the other type of driver's licence (known as a 'dual licence') for an administrative cost only, providing all licensing requirements are satisfied.

## **3.2 Age and Experience**

- 3.2.1 In order to promote the Council's public safety licensing objective, it will be a requirement to produce a prescribed certificate from a registered medical practitioner confirming the applicant/licence holder's fitness to drive if:

- (i) The applicant is a new driver; or
- (ii) The licence holder is over seventy years of age; or
- (iii) The applicant/licence holder has a health condition that may impact upon their ability to drive a hackney carriage or private hire vehicle

- 3.2.2 Applicants required to comply with Section 3.2.1 of this Policy may still apply for a three year licence, however, must produce further medical certification annually or at a shorter period where recommended by the medical practitioner.

- 3.2.3 A licence will not be granted to anyone who has not held a full driving licence, issued in accordance with Part III of the Road Traffic Act 1972 (as amended), for a period of at least twelve months immediately prior to the application.

An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must either:

- obtain a full UK driving licence within twelve months of the issue of the hackney carriage or private hire driver's licence, or
- obtain a 'backing sheet' from the DVLA prior to the issue of the hackney carriage or private hire driver's licence, which can be attached to the non-UK driving licence and used by the DVLA to monitor penalty points obtained whilst driving in the UK.

Where this requirement is not satisfied, the hackney carriage or private hire driver's licence will be automatically suspended pending compliance.

This policy requirement is to ensure appropriate regulation of any penalty points issued by the courts in relation to road traffic offences. The Council consider this to be an integral part of the 'fit and proper person' test.

## **3.3 Driver Knowledge Tests**

- 3.3.1 Hackney carriage drivers clearly need a good working knowledge of the zone for which they are licensed, because hackney carriages can be hired immediately, directly with the driver at ranks or on the street.

- 3.3.2 In order to determine fitness to hold a licence, applicants for a hackney carriage driver's licence are required to undertake a written test as to their



knowledge of the local geography. This test will also test the driver's knowledge of the highway code and the Council's Licensing Policy.

- 3.3.3 In addition, applicants are required to take a short verbal test of their knowledge in relation to customer care, the Council's Licensing Policy and basic numeracy.
- 3.3.4 The procedures in relation to the above are set out in **Appendix C**.
- 3.3.5 The Council recognise that private hire drivers also require a working knowledge of the district as a whole. As private hire vehicles must be pre-booked, however, the Council acknowledges that the same instant knowledge is not required as there would be an opportunity to research the required route.
- 3.3.6 Accordingly, there is no requirement for an applicant for a private hire driver's licence to undertake a written geography test. The applicant will, however, be required to undertake a short verbal test in relation to customer care, the Council's Licensing Policy and basic numeracy.
- 3.4 Driving Proficiency and Qualifications**
- 3.4.1 The Driving Standards Agency (DSA) first introduced a practical driving test specifically designed for hackney carriage and private hire drivers in 1999. Many authorities require the above-mentioned DSA test or some further driving test to be taken before a driver's licence is issued.
- 3.4.2 The Council believes that as a profession, hackney carriage and private hire drivers have a special responsibility for the safe transportation of fare paying passengers. An assessment of a driver's ability will, therefore, be required for all new applicants.
- 3.4.3 All new applicants for hackney carriage and private hire driving licences will be required to produce evidence that they have successfully completed the DSA practical driving test within six months of the initial issue of the licence.
- 3.4.4 All new applicants will be issued with an initial licence for six months only. Failure to obtain successful completion of the DSA practical driving test within this initial six month period will result in the initial licence not being renewed and preclude any further application until the DSA test has been passed. The applicant must then re-apply as a new applicant if they have not passed the DSA test within 12 months of the grant of the initial six month licence.
- 3.4.5 Whilst the Council has no current plans to make it a mandatory requirement for a driver to obtain a professional qualification, for example a BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire, the Council would encourage drivers to do so. In order to actively promote such qualifications, the Council publicises a list of professionally qualified drivers on its website.
- 3.4.6 The DSA test, like a DVLA driving test, only needs to be passed once and a pass certificate can be used at any time one is required in this Policy with one exception. If the Head of Housing and Public Protection, when considering enforcement action, decides that a driver must pass a DSA test due to

concerns over his/her driving standards, a new DSA test must be taken and passed.

### **3.5 Medical Examination**

3.5.1 If required to obtain a medical certificate as required by Section 3.2.1 of this Policy, the applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, a confidential report will be submitted to the Licensing Officer. The applicant may have a copy of the report upon request.

3.5.2 Holders of current PSV and/or HGV Licences, where the holder is able to produce proof of a current (less than one year old) medical examination, will not be required to undergo a further medical examination as required by Section 3.2.1 of this Policy.

3.5.3 Licence holders must advise the Council of any deterioration in their health that may affect their driving capabilities. For the avoidance of doubt, the following medical conditions must be notified to the Council as soon as reasonably practicable, however, this list is not exhaustive:

- any heart-related condition;
- any eyesight related condition;
- abnormal blood pressure;
- diabetes (Type 1 or Type 2);
- epilepsy;
- sudden attacks of giddiness or fainting;
- conditions causing excessive daytime sleepiness such as sleep apnoea;
- alcohol or drug dependency;
- mental or psychological disorders; or
- any other condition that may affect the ability to drive.

3.5.4 Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo further medical examination by a Doctor appointed by the Council, at the applicant's own expense.

3.5.5 Where there remains any doubt about the fitness of any applicant, the Head of Housing and Public Protection Services will review the medical evidence and make any final decision in light of the medical evidence available.

3.5.6 The format of the medical examination will be that prescribed by the standard Group 2 DVLA issued 'D4' medical form available on the Council's website.

### **3.6 Criminal Record Bureau (CRB) Disclosures**

3.6.1 A criminal record check on a driver is seen as an essential safety measure in assessing whether or not an applicant is suitable to hold a licence. An Enhanced Disclosure provided by the Criminal Records Bureau is required by all applicants, whether new or renewal applications. These disclosures include details of spent convictions and police cautions.

3.6.2 The Rehabilitation of Offenders Act 1974 does not apply to applicants for

both hackney and private hire driving licences. They are required to disclose all convictions, including those that would normally be regarded as spent.

- 3.6.3 Before an application for a driver's licence will be considered, the applicant must provide a current (less than three months old) Enhanced CRB Disclosure Certificate (issued specifically for North Hertfordshire District Council), or a certificate of good conduct from the relevant Embassy in the case of an overseas applicant.
- 3.6.4 The Council is an accredited Criminal Records Bureau body, therefore, applicants can deal with the Criminal Records Bureau through the Council. The applicant will be responsible for the payment of the appropriate fee.
- 3.6.5 If a driver can satisfy the authority that they have been conviction, caution, fixed penalty notice or warning free for a minimum period of five years, CRB checks will be required once in every three-year period, usually upon renewal of their licence. A conviction, caution or warning imposed after the licence has been issued or renewed may result in a requirement to obtain annual CRB checks.
- 3.6.6 Licensed drivers must notify the Council without delay of any criminal convictions. Where CRB certificates are not required every 12 months, it is essential that this requirement is strictly adhered to and accordingly any breaches of this requirement are likely to become the subject of disciplinary action by the Head of Housing and Public Protection Services.
- 3.6.7 The Council may consider any warning letter or other disciplinary sanction issued by the Head of Housing and Public Protection Services to be of equal concern to a conviction or warning on a CRB. Accordingly, the requirement to obtain annual CRB certificates may apply in such cases until the requirements of 3.6.5 are met.
- 3.6.8 Some additional controls have been introduced to promote the Council's public safety licensing objective. These include additional CRB checks on drivers or the licence holder being required to formally confirm, by signing a declaration, both their licence details and the fact that they have not been convicted of any offence. In the case of the requirement for an additional CRB check, the Council must have good reason prior to making this request, for example, reasonable belief that the licence holder has a criminal conviction not notified to the Council.
- 3.6.9 The Council is bound by rules of confidentiality, and will not divulge information obtained to any third party. The applicant for a CRB certificate will be sent a separate certificate to their home address, while the Council will also receive a copy of the report. Once the Council have obtained the necessary information from a CRB certificate, the certificate will be destroyed and no information from the CRB will be retained by the Council.
- 3.6.10 As the Council do not directly employ any hackney carriage or private hire drivers, there is no requirement for a licensed driver to be registered with the Independent Safeguard Authority (ISA) to undertake normal licensed activity. If a licensed driver wishes to undertake regular work involving the transporting of vulnerable people, for example school contracts, they will have to obtain an ISA registration and provide details of the registration to the employer.

### **3.7 Relevance of Convictions and Cautions**

- 3.7.1 In relation to the consideration of convictions and cautions recorded against applicants, the Council will adopt the policy set out in **Appendix D** under Convictions Policy.
- 3.7.2 In assessing whether the applicant is a 'fit and proper person' to hold a licence, the Council will consider each case on its own merit. They will take account of cautions and convictions, whether spent or unspent, but only in so far as they are relevant to an application for a licence. Upon receipt of a certificate from the Criminal Records Bureau, the Licensing and Enforcement Manager will assess whether any or all of the spent convictions are capable of having real relevance to the issue of whether or not the applicant is a fit and proper person to hold a licence.
- 3.7.3 In relation to cautions, the Council will have regard to the class and age of the offence and the age of the applicant when the offence occurred, when considering their relevance to an application.
- 3.7.4 In relation to previous convictions, the Council will have regard to the following:
- (i) Whether the convictions are spent or unspent;
  - (ii) The class of the offences;
  - (iii) The age of the offences;
  - (iv) The apparent seriousness, as gauged by the penalty.
- 3.7.5 Applications will be referred to the Head of Housing and Public Protection Services where the applicant's record includes one or more of the following:
- Any term of imprisonment or custody;
  - Any conviction for a violent or sexual offence, or dishonesty;
  - Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving;
  - Any drug related offence; or
  - Any combination of less serious offences where the Licensing and Enforcement Manager is not minded to grant the application.

### **3.8 Convictions during period of licence**

- 3.8.1 Where offences resulting in conviction are committed by licensed drivers in the course of their business or otherwise, it is important, in the interests of consistency and transparency, that a procedure should be in place to consider what effect this should have on their hackney carriage or private hire driver's licence.
- 3.8.2 Driver's licence holders, who are convicted or cautioned for any criminal or motoring offence during the period covered by their existing licence, must disclose the conviction or caution and the penalty involved to the Council within seven days of the conviction. In the case of a deferred sentence, the penalty must be disclosed to the Council within seven days of sentencing. For

these purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered to be a conviction.

3.8.3 Any breaches of relevant legislation or conditions attached to driver, operator and vehicle licences which may come to light following complaints, enforcement action, notification or investigations should be dealt with following the general principals detailed in Section 4 of this Policy .

3.8.4 Any action taken in relation to the general procedure detailed in Section 4 of this Policy does not compromise the ability to supplement this action with the use of the penalty points system detailed in **Appendix J**.

### **3.9 Application Procedure**

3.9.1 An application for a hackney carriage or private hire driver's licence must be made on the specified application form. The application procedure is set out in **Appendix C**.

### **3.10 Grant and Renewal of Drivers Licences**

3.10.1 Holders of existing hackney carriage or private hire licences will be reminded when their licences are due to be renewed, in the month preceding the month of expiry. Application forms, appropriate fees and all supporting documentation must be submitted at least twenty eight days prior to the expiry of the previous licence. Incomplete applications may be returned to the applicant for resubmission when complete. A licence will not be renewed without all supporting documentation being received and satisfying the requirements of this Policy. Although the Council will provide a reminder to the licence holder, it is the licence holder's sole responsibility for ensuring they make their application in accordance with this Policy.

3.10.2 When submitting renewal applications, applicants should be aware that it may take up to five working days to process and issue a licence once all relevant information and the fee have been received. If a licence has not been issued at the point when an existing licence expires, the licence holder must cease operating until the new licence has been received.

3.10.3 After the date of expiry of an existing licence has passed, if a valid renewal application form and fee have not been received, the licence automatically expires. All drivers with expired licences will be required to apply as a new licence application and meet all requirements of a new applicant.

### **3.11 Conditions of Licence**

3.11.1 The Council is not permitted to attach conditions to a hackney carriage driver's licence. It is, however, empowered to attach such conditions to a private hire driver's licence as are considered necessary.

3.11.2 It is considered that the conditions set out in **Appendix E** are reasonable, necessary and proportionate for all licensed drivers but accepted that they may only be legally imposed in respect of private hire drivers.

3.11.3 In accordance with Section 3.11.2 of this Policy, the penalty point system detailed in **Appendix J** is not a condition of the licence. It is, however, a transparent and consistent method for the Council to determine whether or not a driver meets the “fit and proper person” test.

### **3.12 Code of Good Conduct**

3.12.1 Adopting a Code of Good Conduct for hackney carriage and private hire licence holders serves to promote the Council’s licensing objectives in respect of the hackney carriage and private hire trades.

3.12.2 The standards expected of licence holders are detailed in the Code of Good Conduct included in this policy document as **Appendix F**. This appendix should be read in conjunction with the other statutory and policy requirements detailed in this document.

3.12.3 By accepting a licence from the Council, licence holders will be deemed to have read and accepted the Code of Good Conduct, thereby agreeing to adhere to it.

3.12.4 Failure to adhere to the Council’s ‘Code of Good Conduct’ will be dealt with in accordance with the principles of Section 4 of this Policy, primarily through the use of the penalty points system detailed in **Appendix J**.

3.12.5 The Hackney Carriage and Private Hire Consultative Forum have an important role to play in promoting the Code of Good Conduct.

### **3.13 Driver’s Dress Code**

3.13.1 Any reasonable requirement that serves to enhance the professional image of the hackney carriage and private hire trade is to be welcomed.

3.13.2 Accordingly, the Council have introduced a Code of Dress for Licensed Drivers, detailed at **Appendix G**.

3.13.3 Failure to adhere to the Council’s ‘Driver’s Dress Code’ will be dealt with in accordance with the principles of Section 4, primarily through the use of the penalty points system detailed in **Appendix J**.

### **3.14 DVLA Licence Checking**

3.14.1 In order to ensure that the Council have a driver’s complete driving history, thus enabling a fully informed decision to be made in respect of an application, the Council will check the DVLA database for all new and renewal driver applications.

3.14.2 The application form includes a section where the applicant signs to give their consent for this check, the cost of which is borne by the applicant.

3.14.3 Any anomalies between the DVLA record and the applicant’s driving licence will be brought to the attention of the DVLA and the Police.

## **4 DISCIPLINARY AND ENFORCEMENT MEASURES**

### **4.1 Enforcement**

- 4.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trades.
- 4.1.2 In pursuing its objective to encourage responsible hackney carriage and private hire businesses, the Council will operate a proportionate disciplinary and enforcement regime. In order to balance the promotion of public safety with the need to prevent unnecessary interference in a licence holder's business, the Council will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in Section 1.3.1 of this Policy.

Where defects are such that use of a vehicle needs to be immediately prohibited, livelihood interference is inevitable.

- 4.1.3 The Council will adhere to the Enforcement Policy and Practice set out at **Appendix I** to ensure that its enforcement is reasonable, transparent and proportionate.
- 4.1.4 Notwithstanding Section 4.1.3 of this Policy, the Council will also consider the Housing and Public Protection Services Enforcement Policy.

## **4.2 Referrals to the Head of Housing and Public Protection Services**

- 4.2.1 Whilst the day to day enforcement of hackney carriage and private hire licensing, including the issuing of penalty points, is a function carried out by Licensing Officers under the supervision of the Licensing and Enforcement Manager, serious disciplinary matters will be referred to the Head of Housing and Public Protection Services. Further details are given in Section 4 of this Policy.
- 4.2.2 For the purpose of Section 4.2.1, serious disciplinary matters will include:
- (i) an accumulation of twelve or more penalty points as detailed in **Appendix J**;
  - (ii) an offence detailed in Section 4.5 of this Policy; or
  - (iii) any other incident or circumstance that may lead to the suspension of, revocation of, or refusal to renew a licence
- 4.2.3 The Head of Housing and Public Protection Services will consider the impact of transgressions of the law, or an accumulation of penalty points, on the fitness of an individual to hold a hackney carriage or private hire licence and take appropriate action.

## **4.3 Penalty Points Scheme**

- 4.3.1 The Council has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards. The Council must do this in a reasonable, consistent and transparent manner.
- 4.3.2 These standards are defined by legislation and the Council's Hackney Carriage and Private Hire Licensing Policy. Together they identify the Council's requirements of the trade and help to ensure consistent application of these standards by Council Officers.

- 4.3.3 In order to ensure compliance with the Council's Hackney Carriage and Private Hire Licensing Policy and to monitor licence holders ability to fulfil the 'fit and proper' test, a penalty points system will be utilised.
- 4.3.4 The system, as described in **Appendix J**, will serve both as an early warning system to licence holders who fail to meet the Council's required standards and as a consistent and transparent method of enforcement,
- 4.3.5 Penalty points remain on a licence for a period of two years from the date on which they are imposed. If a licence holder accumulates twelve or more penalty points within a period of twenty four months, commencing from the date of imposition of the earliest 'live' penalty points on the licence, they will be referred to the Head of Housing and Public Protection Services.
- 4.3.6 The Head of Housing and Public Protection Services will follow the principles detailed in Section 4.4 of this Policy and have a range of sanctions available, including suspension or revocation of the licence.
- 4.3.7 The adoption of the Penalty Points System will not, however, compromise the Council's ability to enforce breaches of statute or the Council's Licensing Policy in the Courts should an offence necessitate such action.

#### **4.4 Range of Powers**

##### **4.4.1 Issuing of Warnings and Cautions**

As a method of dealing with less serious matters, the Council will issue warnings and cautions where appropriate to the circumstances. Minor or first-time transgressions are likely to attract either an oral or written warning. Repeated or more serious conduct is likely to lead to the issuing of a formal caution, provided:

- There is sufficient evidence to justify a prosecution;
- The licence holder admits his/her guilt;
- The licence holder agrees to be cautioned.

##### **4.4.2 Suspension**

###### **(i) Vehicles**

Hackney carriage and private hire vehicles must be kept in an efficient, safe, tidy and clean condition at all times. Compliance with the vehicle specifications and conditions is essential and will be enforced by periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the licence holder setting out the defect(s) and the required action.

Where there is a risk to public safety the further use of the vehicle will be suspended until the defects have been remedied. The suspension will not then be lifted until the vehicle has undergone a further test at the Council's nominated testing facility, at the licence holder's expense, and meets the requirements of an MOT test and an Engineer's Report.



(ii) Drivers

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period at the discretion of the Head of Housing and Public Protection Services. Such action will, however, only be taken by the Head of Housing and Public Protection Services in conjunction with Section 6.3.2 of this Policy.

(iii) General

Where a licence holder has been referred to the Head of Housing and Public Protection Services because they have been convicted of a serious criminal offence, or have accumulated twelve or more penalty points under the Council's penalty points system, the Head of Housing and Public Protection Services may order the suspension of the licence for a specified period at the discretion of the Head of Housing and Public Protection Services.

#### 4.4.3 Revocation

Where a licence holder has been referred to the Head of Housing and Public Protection Services because they have been convicted of a serious criminal offence, or have accumulated twelve or more penalty points under the Council's penalty points system, the Head of Housing and Public Protection Services may order the revocation of the licence.

#### 4.4.4 Refusal to Renew

As an alternative to revocation, the Head of Housing and Public Protection Services may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed. The Head of Housing and Public Protection Services may suspend the existing licence for the remainder of its licence period depending on the individual merits of the case.

#### 4.4.5 Prosecution

When considering whether to authorise a prosecution in accordance with the Council's Hackney Carriage and Private Hire Licensing Policy, the Head of Housing and Public Protection Services will also have regard to the Housing and Public Protection Services Enforcement Policy.

### 4.5 **Referrals to the Head of Housing and Public Protection Services**

4.5.1 Whilst it is envisaged that the majority of enforcement actions, save those specifically reserved for the Head of Service in section 6.3.2. of this Policy, can be dealt with by Officers, the following matters will normally be referred to the Head of Housing and Public Protection Services due to their serious nature and the risk to public safety:

- (i) refusal to carry a passenger without good reason;
- (ii) unlawful plying for hire;
- (iii) more than one offence of touting for business;
- (iv) more than one valid complaint of a similar nature in relation to driver's

- behaviour;
- (v) overcharging; and
- (vi) any conviction relevant to **Appendix D**

#### **4.6 Complaints against Drivers**

- 4.6.1 Complaints against hackney carriage and private hire drivers are relatively low in North Hertfordshire, however, when received usually relate to overcharging or unprofessional behaviour.
- 4.6.2 All complaints will be fully investigated, often involving the taking of statements from the complainant, driver and any witnesses.
- 4.6.3 The investigating officer will consider all evidence and mitigating circumstances arising from the investigation before making a recommendation to a senior officer who will reach a decision in accordance with the Housing and Public Protection Services Enforcement Policy and this Policy. For the purposes of this paragraph, a senior officer is the investigating officer's immediate supervisor or line manager.
- 4.6.4 The outcome of any complaint will be advised to the complainant in the form of a written response.

### **5 OFFENCES**

- 5.1 Offences in relation to hackney carriages and private hire vehicles are derived from the following sources:
- Town Police Clauses Act 1847 (hackney carriages only);
  - Local Government (Miscellaneous Provisions) 1976 (hackney carriages and private hire vehicles);
  - Transport Act 1980 (private hire vehicles only);
  - the Council's Hackney Carriage and Private Hire Licensing Policy (hackney carriages and private hire vehicles)
- 5.2 It is also an offence to smoke, to allow a person to smoke, or fail to display appropriate signage in a licensed hackney carriage or private hire vehicle. Further details can be found in the Health Act 2006.

### **6. DELEGATED POWERS**

- 6.1 Authorised Officers
- 6.1.1 All Officers of The Council, duly authorised under the Council's Scheme of Delegation, are responsible for the day to day operation of the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy.
- 6.2 Licensing and Enforcement Manager
- 6.2.1 The Licensing and Enforcement Manager is responsible for the management of the Council's Authorised Officers as detailed in Section 6.1.1 of this Policy and any matter specifically referred to within this Policy.

- 6.3 Head of Housing and Public Protection Services
- 6.3.1 The Head of Housing and Public Protection Services is responsible for the overall management of hackney carriage and private hire licensing and any matter specifically referred to within this Policy.
- 6.3.2 The following powers are specifically reserved to the Head of Housing and Public Protection Services:
- i) suspension or revocation of existing licences
  - ii) refusal to renew existing licences
  - iii) refusal of new applications
  - iv) amendments to this Policy
- 6.4 Elected Members
- 6.4.1 The formulation and adoption of the Council's Hackney Carriage and Private Hire Licensing Policy is the responsibility of the Elected Members.

## **7 PRIVATE HIRE OPERATORS**

### **7.1 Requirements and Obligations**

- 7.1.1 Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a Private Hire Operator's Licence.
- 7.1.2 The primary objective in licensing private hire operators is the safety of the public, both in the vehicles and at the operator's premises. In addition, the objectives detailed in Section 1.3 of this Policy apply.
- 7.1.3 A private hire vehicle may only be despatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.
- 7.1.4 A private hire operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds a current private hire driver's licence.
- 7.1.5 All three licences:
- (i) private hire operator's licence,
  - (ii) private hire driver's licence and
  - (iii) private hire vehicle licence
- must be issued by the same Licensing Authority.
- 7.1.6 Applications for operator's licences must be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a fit and proper person to hold an operator's licence.

### **7.2 Criminal Record Checks**

- 7.2.1 Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced CRB disclosure. A Basic Disclosure from the Criminal Records Bureau, or a certificate of good conduct from the relevant embassy

for overseas applicants, is, however, considered appropriate in promoting the objective of public safety.

A reference covering, for example, the applicant's financial record and/or business history, could also be considered appropriate as well as, or instead of, the requirements outlined above in some instances.

- 7.2.2 Before an application for a private hire operators licence will be considered, the applicant must provide a current (less than 3 months old) Basic CRB Disclosure of Criminal Convictions (issued specifically for North Hertfordshire District Council), or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current Drivers Licence with the Council will be exempt from this requirement.

A reference, as detailed in Section 7.2.1 of this Policy, may be requested where appropriate in promoting the public safety objective.

### **7.3 Conditions**

- 7.3.1 The Council has power to impose such conditions on a private hire operator's licence as it considers reasonable, necessary and proportionate.
- 7.3.2 The Council consider the conditions detailed in **Appendix H** to be reasonable, necessary and proportionate. All private hire operator's licences will be issued with these conditions attached.

### **7.4 Insurance**

- 7.4.1 It is considered appropriate for a Licensing Authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.
- 7.4.2 Before an application for a private hire operator's licence is granted, the applicant must either produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed or sign a declaration that their premises is not open to the public.
- 7.4.3 The conditions applicable to Private Hire Operator's Licences, as detailed in **Appendix H**, require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate as well as appropriate public liability insurance for their premises.

### **7.5 Licence Duration**

- 7.5.1 The Department for Transport considers that annual licence renewal is not necessary or appropriate for private hire operators. They recommend, as good practice, that a licence period of five years would be reasonable.
- 7.5.2 The Council will, therefore, issue a successful applicant for a Private Hire Operator's Licence with a five-year licence from the date of grant, subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances.

7.5.3 The licence period for a Private Hire Operator's Licence will run for a period of five years from date of grant. Where a licence is granted part way through a month, that month will be included within the five year period.

7.5.4 Holders of existing private hire operators' licences will be reminded when their licences are due to be renewed, in the month preceding the month of expiry.

## **7.6 Address from which an Operator may operate**

7.6.1 Upon the grant of an operator's licence, the Council will specify on the licence the address from which the operator may operate. This address will be the address stated on the application form. The operator must notify the Council in writing of any change of address during the period of the licence, whether this is a home address or the operating address, within seven days of such a change taking place. The operator must also provide proof of public liability insurance for the new premises, or sign a declaration that their new premises is not open to the public, within seven days of such a change taking place.

Note: Operators are reminded that it is their responsibility to obtain appropriate planning, building control or any other relevant permissions in respect of the premises.

## **7.7 Bases outside the North Hertfordshire District Council Area**

7.7.1 The Council will not grant a private hire operator's licence for an operator with an operating base that is outside the District of North Hertfordshire District Council. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.

## **7.8 Bases inside the North Hertfordshire District Council Area**

7.8.1 A private hire operator's licence issued by The Council will be required for any operator with an operating base that is inside the District of North Hertfordshire District Council. Accordingly, all vehicles and drivers operating from that base will require appropriate licences issued by The Council. This is to ensure that proper regulation and enforcement measures may be taken by the Council and that all vehicles operating with North Hertfordshire meet the Council's licensing requirements. This is in no way intended to be a restraint of trade.

## **7.9 Gaming Machines**

7.9.1 Operators that provide a waiting facility for members of the public and/or drivers should be aware that they cannot make gaming machines available for use. This action would be a criminal offence under the Gambling Act 2005.

# **8 FARES**

## **8.1 General**

8.1.1 Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer. The Council considers it good practice to review the fare scales at regular intervals, and will, therefore, consider the fare scales on an annual basis.

- 8.1.2 When determining the level of fares, consideration will be given to what it is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost-effective service at the times it is needed.
- 8.1.3 Out of zone journeys can be negotiated prior to the commencement of the journey.
- 8.1.4 One of the main complaints relating to hackney carriages concerns overcharging. To protect the fare paying public from overcharging, as well as to protect the drivers from complaints, The Council will operate a simple fare tariff that must be displayed in all hackney carriages.
- 8.1.5 In reviewing the fares tariff on an annual basis, The Council will consult with the trade and follow the appropriate procedures detailed in the Local Government (Miscellaneous Provisions) Act 1976.
- 8.1.6 These regulations in relation to fares do not apply to private hire vehicles.

## **8.2 Table of Fares**

- 8.2.1 The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised fares will be provided to each hackney carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.
- 8.2.2 Although each individual hackney carriage zone is a District in its own right, the Council, acting as licensing authority for each District, will normally set one fare tariff for the whole of North Hertfordshire. The nature of the zones is such that there are no discernible differences between zones that would necessitate the setting of individual zone fare tariffs. The Council will, however, keep this situation under review and will consider any representations in this respect as part of the fare setting consultation each year.

## **8.3 Receipts**

- 8.3.1 A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.

## **8.4 Commencement of the Journey in a Hackney Carriage**

- 8.4.1 For the avoidance of doubt, the meter in a hackney carriage must only be started at the commencement of the journey, that is the time when the customer enters the vehicle.

It is not permitted to start the meter at a rank or operating base whilst en route to collect a passenger.

## **9 FEES**

### **9.1 Fee Structure**

- 9.1.1 The legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles.
- 9.1.2 The fees currently payable for the grant and renewal of hackney carriage and private hire licences are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.
- 9.1.3 The setting of fees is the responsibility of the Head of Housing and Public Protection Services in consultation with the Portfolio Holder
- 9.1.4 Although each individual hackney carriage zone is a District in its own right, the Council, acting as licensing authority for each District, will normally set one fee structure for the whole of North Hertfordshire. The nature of the administration and enforcement of hackney carriage licensing is such that there are no discernible differences between zones as the process is identical. The Council will, however, keep this situation under review and will consider any representations in this respect when Elected Members set the fee structure each year.

## **9.2 Payments**

- 9.2.1 Cheques or postal orders for licence applications must be made payable to the Council. The Council is also able to accept payment by debit or credit card.
- 9.2.2 The Council is unable to accept cash payments.

## **9.3 Refunds, Transfers and Duplicate Copies**

- 9.3.1 In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the whole months of the unexpired portion of the licence fee.
- 9.3.2 In common with most types of licence, an appropriate fee will be paid to cover the administrative costs associated with the transfer of a licence from one licence holder to another.
- 9.3.3 Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.
- 9.3.4 In the case of a licence application that has been refused, the application fee may be refunded less an appropriate administrative charge to cover the cost of the application process.
- 9.3.5 In the case of a licence that has been suspended, revoked or otherwise ends early due to disciplinary matters, no refund will be made by the Council.

## **10 TAXI RANKS**

### **10.1 Appointed Ranks**

- 10.1.1 The Council will periodically review the provision of hackney carriage ranks within the District. In the event that there is evidence of the need to amend the existing provisions, a full consultation would be undertaken prior to any amendments.
- 10.1.2 Comments are welcomed from either the trade or the public on the need for additional ranks in specific locations, the potential for re-locating or extending existing ranks or indeed arguments for the removal of ranks which no longer fulfil a useful purpose.

## **10.2 Waiting on Stands**

- 10.2.1 It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare; drivers who park on a stand and leave their vehicle unattended are committing an offence.
- 10.2.2 Whilst the law states it is an offence to leave a vehicle unattended on a hackney stand, discretion will be allowed for drivers leaving their vehicles in acceptable circumstances, for example 'comfort breaks'. Leaving a hackney carriage unattended on a rank for any other circumstances, for example shopping, will be dealt with as an offence in accordance with this Policy.

## **10.3 Plying for Hire**

- 10.3.1 For the avoidance of doubt, the Council does not have a by-law requiring hackney carriages to return to a taxi rank between fares. Hackney carriages can, therefore, park and be available for hire in any position where an ordinary member of the public can lawfully park. Hackney carriages are, however, subject to road traffic regulations and should not park in any position that obstructs the highway, the highway being both the road and the footway.

## **11 HACKNEY CARRIAGE AND PRIVATE HIRE CONSULTATIVE FORUM**

- 11.1 The Council wish to encourage discussions between the trade and the Licensing Authority, in order to promote a successful working relationship.
- 11.2 Further information is available on the Council's website [www.north-herts.gov.uk](http://www.north-herts.gov.uk)

## **12 AMENDMENTS TO THE POLICY**

- 12.1 Where there are specific provisions within the policy for making amendments, for example Section 8.2.2 that provides for an annual addendum to be published detailing the revised table of authorised fares, the Head of Housing and Public Protection Services may authorise that amendment without further consultation. This does not compromise, however, any other consultation that may be undertaken by the Council in relation to such amendments, for example the consultation process in determining the new table of fares.
- 12.2 Any substantial amendment to this Policy, not specifically provided for as detailed in Section 12.1 of this Policy, will only be implemented after further



consultation with the trade and the public. All substantial amendments must be authorised by the Elected Members.

For the purpose of this section, any substantial amendment is defined as one that:

- will have a significant financial impact on licence holders or the public, or
- will have a significant procedural impact on licence holders or the public, or
- may not be perceived by the trade or the public to be consistent with the published objectives detailed in Section 1.3 of this policy

12.3 Any minor amendment to this policy, not specifically provided for as detailed in Section 12.1 of this Policy, may be authorised by the Head of Housing and Public Protection Services in consultation with the Portfolio Holder responsible for Housing and Public Protection. For the purpose of this section, any minor amendment is an amendment not defined as substantial in Section 12.2 of this Policy.

### **13 RIGHTS OF APPEAL**

13.1 The Local Government (Miscellaneous Provisions) Act 1976 Sections 48, 52 and 77 detail an applicant's right of appeal.

13.2 In general terms, where an applicant is aggrieved by the Council's decision to refuse to grant, refuse to renew, suspend or revoke a licence, the applicant has a right of appeal to the local Magistrates' Court, which is currently based in Stevenage.

13.3 Any appeal must be lodged at the Court within twenty-one days of the applicant receiving notification of the Council's decision. The appeal must state the grounds upon which the appeal is based.

### **14 DEFINITIONS**

14.1 All references in this policy document to the following terms imply the definition contained below:

<b>Term</b>	<b>Definition</b>
Authorised Council Officer'	Any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
'Best Practice Guidance'	Best Practice Guidance on Taxi and Private Hire Vehicle Licensing issued by the Department for Transport dated March 2010
'the Council'	North Hertfordshire District Council
'the District'	the geographical region contained within the boundaries of North Hertfordshire District Council

‘the Elected Members’	Elected Members of North Hertfordshire District Council sitting as members of the Licensing and Appeals Committee or as members of the Cabinet
‘he’, ‘his’, or ‘him’	all references to ‘he’, ‘his’, or ‘him’ expressly also imply the definition of ‘she’, ‘hers’, or ‘her’
‘the Head of Housing and Public Protection Services’	the current post-holder (or the Head of Service of the appropriate Service Area following any subsequent restructure), or any nominated Deputy authorised by the Council’s Scheme of Delegation.
‘the Licensing Authority’	North Hertfordshire District Council
‘the Licence Plate’ or ‘the plate’	the vehicle Licence Plate issued to all vehicles and required to be displayed externally at the rear of all licensed vehicles
‘this Policy’	North Hertfordshire District Council’s Hackney Carriage and Private Hire Licensing Policy
‘proprietor’s licence’	either a hackney carriage or private hire vehicle licence
Portfolio Holder	the Elected Member responsible for Housing and Public Protection Services(or the appropriate Service Area following any subsequent restructure), who is a member of Cabinet
Registered Medical Practitioner	any person with suitable qualifications in medicine and currently registered with the General Medical Council that is suitably qualified to perform the function of a General Practitioner (Doctor) or higher
Disability Impact Assessment	an assessment undertaken by the Council periodically to ensure that it complies with its statutory duties in respect of the Equalities Act 2010 and other equalities Legislation
Driver’s Licence	any reference to the term Driver’s Licence, unless prefixed by DVLA, refers to a hackney carriage or private hire driver’s licence (within the context of the specific paragraph) issued by the Council.
<u>Hackney Carriage (as defined by s 38 of the Town Police Clauses Act 1847)</u>	

Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance, and

every carriage standing upon any street within the prescribed distance, having thereon any numbered plate required by this or the special Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this Act; and in all proceedings at law or otherwise the term "hackney carriage" shall be sufficient to describe such carriage: Provided always, that no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches, shall be deemed to be a hackney carriage within the meaning of this Act.

Private Hire Vehicle (as defined by s 80 of the Local Government (Miscellaneous Provisions) Act 1976)

A motor vehicle constructed or adapted to seat fewer than eight 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.

## APPENDIX A

### VEHICLE SPECIFICATION

#### **A1 General**

A1.1 All hackney carriage or private hire vehicles shall comply in all respects with the requirements detailed in **Appendix A** of this Policy. This is in addition to all requirements of road traffic regulations and legislation relating to all motor vehicles, including any Council byelaws which may be appropriate.

A1.2 Vehicles shall normally have European Community M1 type approval and must comply in all respects with:

- i) the Motor Vehicle (Type Approval) Regulations 1980 (European Community Whole Vehicle Type Approval); or
- ii) the Motor Vehicle (Type Approval) Regulations 1984 (United Kingdom Low Volume Type Approval),

and in use must comply with the Road Vehicles (Construction and Use) Regulations 1986.

(all as amended from time to time)

A1.3 Motor vehicles which have M type approval (European Community Whole Vehicle Type Approval) and have been modified or have been subject to any alterations since manufacture will be considered provided that they are presented with:

- (i) United Kingdom Low Volume / Small Series Type Approval for Passengers Cars; or

(ii) United Kingdom Single Vehicle Type Approval

However, United Kingdom Single Vehicle Type Approval will not be accepted where the seats belts fitted to the vehicle are:

- (i) not those fitted by the manufacturer and tested in accordance with the vehicle's original type approval, or
- (ii) where the vehicle has been fitted with seating / wheelchair tracking which may invalidate the original type approval for any seats fitted to the vehicle, except where evidence is produced by the applicant(s) that this is not the case.

A1.4 Motor vehicles which have N type approval (European Community Whole Vehicle Type Approval) will not normally be considered unless they are presented with United Kingdom Low Volume / Small Series Type Approval for Passenger Cars.

A1.5 All vehicles shall:

- be capable of carrying not less than four nor more than eight passengers,
- be fitted with a right hand drive (special conditions apply to stretched limousines)

A1.6 Vehicles should have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes at any time.

A1.7 Sufficient means shall be provided by which any person in the vehicle may communicate with the driver.

A1.8 All vehicles shall be maintained in sound and roadworthy condition at all times and serviced according to the manufacturer's recommendations.

## A2 Vehicle Type

A2.1 General (all applications)

A2.1.1 Left-hand drive vehicles will not be considered for licensing, with the exception of stretched limousines as detailed in **Appendix B**. In the interests of public safety, passengers travelling in the front passenger seat of licensed vehicles must be able to exit the vehicle directly onto the footway rather than directly onto the carriageway.

A2.2 New Applications

A2.2.1 All vehicles for new hackney carriage licence applications must be either:

- i) a "London" type hackney carriage, or
- ii) a suitable wheelchair accessible vehicle, approved by the Council

A2.2.2 All vehicles for new private hire licence applications must be either:

- i) a saloon, estate or hatchback type vehicle with at least four side doors, or

- ii) a purpose-built mini-bus designed to carry not less than four nor more than eight passengers

### A2.3 Renewal Applications

A2.3.1 Any hackney carriage vehicle Licence Plate in existence on 1<sup>st</sup> February 2003 may be renewed or transferred to a new vehicle (see vehicle replacement policy at paragraph 2.11.4) without having to meet the new vehicle requirements of Section A2.2.1 of this Policy. Any vehicle licensed as a wheelchair accessible vehicle on or after 1<sup>st</sup> February 2003 can only be replaced with a wheelchair accessible vehicle.

A2.3.2 All vehicles for private hire licence renewal applications must be either:

- i) a saloon, estate or hatchback type vehicle with at least four side doors, or
- ii) a purpose-built mini-bus designed to carry not less than four nor more than eight passengers

## A3 Vehicle Age

### A3.1 Hackney Carriages

A3.1.1 When first licensed, all vehicles must be less than five years old from the date of first registration.

A3.1.2 "London" type hackney carriages may be licensed to a maximum of fifteen years old from the date of first registration, subject to six-monthly testing by the Council's authorised garage upon reaching the age of eight years old from the date of first registration. Each six-monthly test requires the vehicle to obtain an Engineer's Report pass certificate and pass an MOT test.

Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must have been received prior to the previous licence expiry date for this section to apply.

These requirements are in addition to the general testing requirements of Section 2.6 of this Policy.

A3.1.3 Approved "wheelchair accessible" type hackney carriages may be licensed to a maximum of ten years old from the date of first registration, subject to six-monthly testing by the Council's authorised garage upon reaching the age of five years old from the date of first registration. Each six-monthly test requires the vehicle to obtain an Engineer's Report pass certificate and pass an MOT test.

Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must have been received prior to the previous licence expiry date for this section to apply.

These requirements are in addition to the general testing requirements of Section 2.6 of this Policy.

- A3.1.4 Saloon, estate, hatchback, or multi-passenger type hackney carriages, licensed in accordance with Section A2.3.1 of this Policy, may be licensed to a maximum of seven years old from the date of first registration, subject to six-monthly testing by the Council's authorised garage upon reaching the age of five years old from the date of first registration. Each six-monthly test requires the vehicle to obtain an Engineer's Report pass certificate and pass an MOT test.

Vehicles meeting this requirement may be licensed until such time as the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must have been received prior to the previous licence expiry date for this section to apply.

These requirements are in addition to the general testing requirements of Section 2.6 of this Policy.

#### A3.2 Private Hire Vehicles

- A3.2.1 When first licensed, all vehicles must be less than five years old from the date of first registration. The only exception to this is an existing licensed hackney carriage that may be transferred to a private hire vehicle providing it meets the requirements of section A3.2.2.

- A3.2.2 A licensed private hire vehicle that reaches five years of age from the date of first registration may continue to be licensed provided that it is:

- (i) in exceptionally good mechanical condition, and
- (ii) is mechanically tested by the Council's authorised garage every six months and obtains an MOT pass certificate and an Engineer's Report pass certificate

- A3.2.3 A private hire vehicle may continue to be licensed until such time as a mechanical or cosmetic defect is found whereby the above requirements cannot be achieved. At such a time, the vehicle will no longer be licensed. Where repair work will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must have been received prior to the previous licence expiry date for this section to apply.

#### **A4 Doors**

- A4.1 All licensed hackney carriages or private hire vehicles must have at least three side-opening passenger doors, which may be opened from the inside and the outside.
- A4.2 All vehicles must have sufficient safe and suitable access and egress from the vehicle for the driver and all passengers, excluding the rear exit and the driver's front door.

**A5 Tyres**

- A5.1 The licensed vehicle must be fitted with either all radial or all cross-ply tyres, including the spare wheel.
- A5.2 All tyres, including the spare wheel, must be suitable for use on the vehicle and conform to the requirements of the Original Manufacturers' Specification.
- A5.3 Run-flat tyres are acceptable on licensed vehicles.
- A5.4 'Space-saver' spare tyres are acceptable on licensed vehicles if they conform to the Original Manufacturers' Specification.

If a 'space-saver' spare tyre is used on a licensed vehicle it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the 'space-saver' spare tyre is being used on the vehicle.

- A5.5 Original Manufacturers' Specification 'tyre repair kits / compressor' are permitted within licensed vehicles provided they comply with the relevant British Standards..

If a 'tyre repair kit / compressor' is used on a licensed vehicle in lieu of a spare tyre it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the tyre repaired with the 'tyre repair kit / compressor' is being used on the vehicle.

**A6 Drivers' Vehicle Mirrors**

- A6.1 External rear view mirrors must be fitted to both sides of all licensed vehicles.
- A6.2 All licensed vehicles must have an internal rear view mirror appropriately fitted in accordance with appropriate legislation and/or manufacturers' specification.

**A7 Interior Dimensions**

- A7.1 There must be sufficient space between the seat cushions and the lowest part of the roof to safely accommodate the driver and passengers in reasonable comfort. Eighty six centimetres is the minimum requirement.
- A7.2 There must be sufficient space between the front and back seats to safely accommodate the driver and passengers in reasonable comfort. There must be at least eighteen centimetres between the back of the front seat and the front of the next row of rear seats.

**A8 Seats**

- A8.1 Access to every passenger seat must be unobstructed and be easily accessible to passengers without the need for seats to be folded or removed and without the need for more than one passenger to move.
- A8.2 Passenger seats must be at least forty one centimetres wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the

vehicle. Measurements are to be taken laterally along the narrowest part of the seat.

A8.3 Unless the Original Manufacturers' Specification states otherwise, the front seat of the vehicle next to the driver will be regarded as a seat for one passenger only.

## **A9 Seat Belts**

A9.1 All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried, fully compliant with the relevant British Standard, except where legislation specifically provides an exemption.

A9.2 In relation to the carriage of all passengers, including children, the requirements of all relevant legislation must be complied with.

## **A10 Passenger Capacity**

A10.1 All licensed vehicles should be capable of carrying not less than four and not more than eight passengers.

A10.2 The seating capacity for each licensed vehicle will be determined by the Council in accordance with the requirements of **Appendix A** of this Policy. The vehicle Licence Plate will state the maximum number of passengers applicable to the vehicle.

## **A11 Fire Extinguishers**

A11.1 An appliance for extinguishing fires must be carried in all licensed vehicles. Such an appliance must be suitable for vehicle fires (fire class B and C) and conform to BSEN 3, showing the appropriate kite-mark.

A11.2 The appliance must be securely fixed in a position readily accessible to the driver. It is acceptable for the appliance to be carried inside the vehicle's luggage compartment, however, it is preferable that the appliance is carried in the passenger compartment and visible to the passengers.

A11.3 All extinguishers must be certified in accordance with the appropriate British Standard. The date of expiry must be clearly visible on the extinguisher. The extinguisher must be marked with the vehicle registration number or Licence Plate number.

## **A12 First Aid Kit**

A12.1 All licensed vehicles must carry a first aid kit suitable for treating minor injuries that complies with the advice of the Health and Safety Executive as a minimum. There is no requirement for a driver to administer first aid treatment, however, the first aid kit should be made available to passengers or any person(s) where appropriate.

A12.2 The first aid kit should be stored in such a position so as to be readily available to the driver at all times.

A12.3 The first aid kit should be marked with the registration or plate number of the vehicle and replenished as necessary to conform with any product expiry



date.

### **A13 Ventilation**

- A13.1 Windows must be provided to all passenger compartments along with adequate means of opening and closing not less than one window on either side of the vehicle, in both the front and rear passenger compartments.
- A13.2 Rear passenger windows must be capable of being opened by passengers when seated unless air conditioning is available, in which case the air conditioning must be operated by the driver upon request.

### **A14 Luggage**

- A14.1 Adequate storage for passenger luggage must be available. Luggage carried must be suitably secured in place without obstructing any emergency exits.
- A14.2 If the licensed vehicle is an estate, hatchback, or multi-passenger type vehicle, it must be fitted with a guard-rail or manufacturer's specification compartment cover, approved by the Council, to prevent luggage from entering the rear passenger compartments. Exemption from this requirement will only be given where the construction of the vehicle, in the Council's opinion, does not require such a rail or cover.

### **A15 Maintenance and Condition of the Vehicle**

- A15.1 The exterior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the exterior of the vehicle shall:
- i) be free of large and/or sharp-edged dents,
  - ii) be free of visible rust,
  - iii) be free of unrepaired accident damage (except where a Licensing Officer has agreed a time period for cosmetic repairs under Section A30.2),
  - iv) have uniform paintwork equivalent to that applied by the manufacturer, and
  - v) be maintained in an acceptable state of cleanliness, (discretion may be given during periods of adverse weather)
- A15.2 The interior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the interior of the vehicle shall:
- i) be free of all stains to the upholstery,
  - ii) be free of all splits and tears to the seats,
  - iii) be maintained in an acceptable state of cleanliness, and
  - iv) provide seats functioning in accordance with the Original Manufacturers' Specification.
- A15.3 For the avoidance of doubt, any vehicle that would not pass an Engineer's Report or MOT must not be used until such time as the requirements of the Engineer's Report and MOT can be met.
- A15.4 All licensed vehicles shall be liable to be randomly inspected and tested by

Authorised Council Officers or the Police. If it is discovered during an inspection that a vehicle is not being properly maintained, an Improvement Notice may be served on the owner under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976. This notice will specify the defects and the action required to remedy the problem.

A15.5 Failure to comply with the requirements of an Improvement Notice will be considered a serious breach of licensing requirements and dealt with accordingly. If the requirements of an Improvement Notice are not rectified within two months, the vehicle licence can be revoked in accordance with section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

## **A16 Modifications**

A16.1 No material alteration or change in the specification, design, condition or appearance of any licensed vehicle may be made without:

- i) compliance with road traffic legislation,
- ii) compliance with insurance requirements, and
- iii) obtaining approval for the change(s) from the Council

## **A17 Licence Plates**

A17.1 At all times when a vehicle is licensed as a hackney carriage or private hire vehicle, unless an exemption has been granted under Section A17.3 of this Policy, the vehicle must:

- display the Licence Plate provided by the Council, securely fixed externally in a prominent position on or above the rear bumper of the vehicle

A17.2 The Licence Plate remains the property of the Council and must be returned within seven days when:

- i) the vehicle ceases to be licensed as a hackney carriage or private hire vehicle, or
- ii) requested to do so by an Authorised Officer of the Council in writing when the plate is suspended, revoked, or has expired.

A17.3 Exemption to the requirements of Section A17.1 of this Policy may be given in certain circumstances to private hire vehicles. In order to qualify for exemption, a written letter of exemption must be obtained from the Council and carried in the vehicle at all times. The Licence Plate must also be carried in the vehicle in these circumstances.

In the absence of an exemption letter in the vehicle, the requirements of Section A17.1 above must be complied with.

## **A18 Signage**

A18.1 Hackney Carriage Vehicle Markings

A18.1.1 Hackney carriage vehicles, other than those with built-in roof signs, must be fitted with an illuminated external sign on and above the roof of the vehicle. The sign must display either:

- i) the word "TAXI", or
- ii) the name and telephone number of the hackney carriage company, or
- iii) the words "FOR HIRE", or
- iv) a combination of the above

The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public.

- A18.1.2 The illuminated external roof sign, including built-in roof signs, must be switched off when the vehicle has been hired and illuminated when available for hire.
- A18.1.3 The roof sign, other than those built-in to the vehicle, must be mounted on the vehicle roof and be adequately secured.
- A18.1.4 An internal illuminated "FOR HIRE" sign may be fitted in licensed hackney carriages, in a position approved by the Council. The sign's illumination must be switched off when the vehicle has been hired.
- A18.2 Private Hire Vehicle Markings
- A18.2.1 A private hire vehicle must not carry any roof sign of any description or any markings that may give the impression that it is a hackney carriage.
- A18.2.2 Any advertising or signage on the vehicle must not include the words "taxi", "cab", "hackney carriage" or "hire".

In the case of the word Taxi being part of the company name, for example "XYZ Taxis", the company name may be displayed on the vehicle provided that there is also reference to the fact that the vehicle is a private hire vehicle and must be pre-booked.

## **A19 Advertising**

- A19.1 No more than five external advertisements shall be permitted on hackney carriages or private hire vehicles. The roof sign on hackney carriages is not included as an advertisement for the purpose of this section.
- A19.2 External advertisements shall be confined to the door panels or the rear of the vehicle.
- A19.3 Any advertisement on the front door panels or rear of the vehicle must be restricted to the name, logo or insignia, telephone number, or other contact details of the owner or operator of the vehicle. No other advertisement is permitted on the front door panels or rear of the vehicle.
- A19.4 Advertising of other businesses, products or services is only permitted on the rear door panels of the vehicle.
- A19.5 No advertisement shall obliterate, obscure or be confused with the vehicle's Licence Plate.

- A19.6 Internal advertisements are permitted on the windscreen or rear window but must be:
- i) no wider than ten centimetres and
  - ii) positioned so that they do not obstruct the driver's view in any way, and
  - iii) be restricted to the name, logo or insignia, telephone number, or other contact details of the owner or operator of the vehicle.
- A19.7 For the purpose of this section, the display of 'no smoking' signage, as required by legislation, is not considered to be advertising.
- A19.8 For the purpose of this section, a sign indicating that the vehicle is able to convey passengers in wheelchairs (provided that the vehicle has been manufactured or properly adapted for that purpose) is not considered to be advertising.
- A19.9 All advertisements shall be in good taste and contain no material that may be considered to be offensive to any section of the community.
- A19.10 The owner of any vehicle displaying an advertisement that does not conform to this section of the Policy will be required to remove the offending advertisement. Until such time as the offending advertisement has been removed, the vehicle licence will be suspended.

## **A20 Communications Devices**

- A20.1 All two-way radio equipment must be of a type currently approved by the Radio Communications Agency.
- A20.2 All radio equipment fitted to the vehicle must be fitted securely and safely and in accordance with guidelines for the time being published by the Radio Communications Agency.
- A20.3 Only one two-way radio may be operational in the vehicle at any one time and this shall be an approved licensed radio used exclusively for the hackney carriage or private hire vehicle.
- A20.4 The use of a Citizen Band (CB) transmitter or receiver is prohibited.
- A20.5 The use of radio scanning devices is prohibited and such devices must not be fitted or carried in the vehicle.

## **A21 Meters**

- A21.1 Hackney carriages
- A21.1.1 An approved taximeter must be fitted in all hackney carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure.
- All taximeters must be appropriately stamped to ensure compliance with The

Measuring Instruments (Taximeters) Regulations 2006, or any subsequent legislation.

- A21.1.2 The taximeter shall be positioned so that the display on the face of the meter may clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring including during the hours of darkness and also at any time at the request of the hirer.
- A21.1.3 When the meter is operating there shall be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that may be charged for a journey.
- A21.1.4 An official copy of the Council's fare tariff shall be clearly displayed and legible in the vehicle so as to be plainly visible to passengers carried therein.
- A21.1.5 The vehicle taximeter shall be brought into operation at the commencement of the journey and the fare demanded by the driver shall not be greater than that fixed by this Council in connection with the fare tariff for the hire of hackney carriages.

In the event of such a journey commencing in but ending outside the hackney carriage's zone, there may be charged for the journey such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.

- A21.1.6 'Calendar' meters are permitted in hackney carriages providing that they operate in accordance with the Council's agreed fare tariff. For the avoidance of doubt, the tariff that is in operation at the time of the commencement of a journey must remain throughout that journey.

## A21.2 Private Hire

- A21.2.1 Private hire vehicles are not required to be fitted with a taximeter. Where a taximeter or other device for recording fares is fitted, however, it must be of a type approved by the Council.
- A21.2.2 Private hire vehicle driver's must agree the cost of the journey with the passenger(s) prior to undertaking the journey. At the conclusion of the journey, the fare charged should not exceed the amount previously agreed.

## A22 Trailers

- A22.1 Trailers may only be used with the prior approval of the Council and subject to the following requirements:
- (i) The driver's DVLA driving licence must cover the categories that allow the towing of trailers, currently 'BE' for cars and 'D1E' for a minibus, as amended by any subsequent legislation;
  - (ii) The trailer must at all times comply with all requirements of road traffic legislation, in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986;

- (iii) The vehicle insurance must include cover for towing a trailer;
- (iv) Trailers must not be left unattended anywhere on the highway;
- (v) The speed restrictions applicable to trailers must be observed at all times;
- (vi) A suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use;
- (vii) Trailers must be approved by the Council's nominated garage;
- (viii) Trailers must undergo any inspection required by the Council;
- (ix) Trailers must display an identical Licence Plate to the licensed vehicle. The Council may charge an administrative fee for the duplicate plate;
- (x) Trailers cannot be used on a hackney carriage rank and should only be used for specific pre-booked journeys, not whilst plying for hire.

## **A23 Disability Access**

- A23.1 In the case of all hackney vehicles, which are built or adapted for disabled passengers, the design of the vehicle should preferably ensure that any wheelchair is loaded from the side rather than the rear of the vehicle. Whilst the Council prefer vehicles to be loaded from the side, each vehicle will be assessed on its own merits.
- A23.2 Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:
- (i) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.
  - (ii) Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit.
  - (iii) A suitable restraint must be available for the occupant of a wheelchair.
  - (iv) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
  - (v) Ramps and lifts must be securely stored in the vehicle before it may move off.
- A23.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.
- A23.4 Where a vehicle is designed or adapted to carry a wheelchair, the proprietor

shall ensure that the driver has received sufficient training to safely load and convey wheelchair bound passengers.

## **A24 Vehicles Powered by Liquid Petroleum Gas (LPG)**

A24.1 An applicant for a licence involving a vehicle that has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Association Code of Practice. This certification is required to ensure that the vehicle is considered safe by an approved inspector.

A24.2 If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Alternatively, if the vehicle is fitted with 'run-flat' tyres, exemption from carrying a spare wheel will be granted.

## **A25 Tinted Windows**

A25.1 The front windscreen, front driver's side window and front passenger's side window must be clear glass. Exemption from this requirement will be given for original manufacturer's specification 'light tint' glass.

A25.2 The rear windscreens of any vehicle shall not have been treated so that less than 75% of light is transmitted through it, and the rear passenger compartment side windows of any vehicle so that less than 70% of light is transmitted through them unless the following criteria can be met:

- (i) The vehicle is licensed as private hire vehicle only;
- (ii) The vehicle is a stretched limousine vehicle (see separate additional conditions for limousines at **Appendix B**);
- (iii) The vehicle will not be engaged at any time in any contract for the carriage of school children;
- (iv) The Private Hire Operator must, unless such a vehicle has been specifically requested, inform a hirer that such a vehicle will be supplied.

This section does not preclude any requirements provided for in any relevant legislation relating to road traffic vehicles.

## **A26 Insurance**

A26.1 There shall be a policy of insurance, or such security as complies with the requirements of Part IV of the Road Traffic Act 1972, during the duration of the vehicle licence. Under no circumstances will a vehicle licence be issued or renewed without proof that this section has been complied with.

A26.2 The registered owner of the licensed vehicle shall ensure that it is adequately insured to the satisfaction of the Council and all relevant legislation at all times that it is available for the carrying of passengers.

A26.3 At any time when the requirements of this section of the Policy have not been satisfied, the vehicle licence will be automatically suspended until such time as adequate insurance has been obtained.

A26.4 As case law has established that a vehicle licensed as a hackney carriage or private hire vehicle remains a licensed vehicle at all times until the licence expires or is surrendered, only appropriately licensed hackney carriage or private hire drivers may drive the vehicle. The Council will not, therefore, accept any certificate of insurance that contains persons that do not hold a valid hackney carriage or private hire driver's licence (as appropriate) for the vehicle.

## **A27 Changes**

A27.1 Any change affecting this vehicle licence must be notified within fourteen days of such change, to the Licensing Officer.

A27.2 When the holder of a vehicle licence wishes to transfer the licence to another person he must notify the Council, in writing, using the prescribed application form and paying the appropriate fee before such change takes place.

Transfer of the licence will not be granted until such time as the prescribed procedure has been completed and a new vehicle licence has been issued.

## **A28 Inspection**

A28.1 All hackney carriage and private hire vehicles must be available for inspection at all times when requested by an Authorised Officer of the Council or a Police Officer.

A28.2 All vehicle documentation must be produced within twenty four hours, or such other time as specified, when requested by an Authorised Officer of the Council or a Police Officer.

## **A29 Unauthorised Use**

A29.1 The proprietor of a hackney carriage or private hire vehicle shall not allow the vehicle to be driven and used for hire by any person who does not hold an appropriate current hackney carriage or private hire driver's licence issued by The Council.

A29.2 For the avoidance of doubt, case law has established that once licensed as a hackney carriage or private hire vehicle, the vehicle remains a licensed vehicle at all times until the licence expires, is surrendered, is suspended or is revoked. Even if a licensed vehicle is being used for private purposes, it must still meet all the requirements of a licensed vehicle, for example displaying a Licence Plate and being driven by a licensed driver.

## **A30 Accident Reporting**

A30.1 In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a hackney carriage or private hire vehicle causing damage materially affecting:



- i) the safety, performance or appearance of the vehicle, or
- ii) the comfort or convenience of the passengers,

must be reported to the Council as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof.

A30.2 Where, following an accident or damage to a licensed vehicle as defined in Section A30.1, and it is the intention of the owner or operator to continue licensed use, the vehicle must immediately be inspected by the Council's approved garage (at the owner's or operator's expense) to determine its fitness for continued use. It is the responsibility of the licence holder to notify the Council that this requirement has been satisfied.

If the Council's approved garage determines that the vehicle is fit for continued use, the time-scale for cosmetic repairs must be agreed with a Council Licensing Officer.

The Council may suspend the use of a licensed vehicle until it is suitably repaired and conforms to the requirements of Section A15 of this Policy.

A30.3 A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by a hire vehicle, provided:

- (i) the damage to, or defect in, the vehicle has been reported;
- (ii) an application is made in the prescribed manner for a vehicle licence transfer;
- (iii) the replacement vehicle meets the requirements of the Council's Hackney Carriage and Private Hire Licensing Policy and is suitable to be used for hire purposes;
- (iv) the hiring of the hire vehicle is organised and paid for by the affected licensed owner or operator.

## **A31 Miscellaneous**

A31.1 The proprietor of a hackney carriage or private hire vehicle shall not knowingly cause or permit the vehicle to be used for any illegal or immoral purpose.

A31.2 Nothing in **Appendix A** of this Policy shall be interpreted as overriding the provisions of:

- i) the Town Police Clauses Act 1847, as amended;
- ii) the Local Government (Miscellaneous Provisions) Act 1976, as amended;
- iii) the Transport Act 1986, as amended.

## **A32 Health Act 2006**

A32.1 It is the responsibility of both the driver and the proprietor to ensure no smoking signage, as prescribed by the Health Act 2006, is displayed in all licensed hackney carriages or private hire vehicles at all times.

**A33 Dispensation**

- A33.1 The Head of Housing and Public Protection Services may, in exceptional circumstances, dispense with or amend any of the requirements detailed within **Appendix A** of this Policy. In doing so, the reasons for granting such a dispensation must be fully explained and the requirements of paragraph 1.4 of this Policy must be satisfied.

**APPENDIX B****ADDITIONAL CONDITIONS FOR LICENSING STRETCHED LIMOUSINES****B1 Definition**

- B1.1 For the purposes of this Policy, a stretch limousine is defined as follows: -

*A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that;*

- i) is capable of carrying up to but not exceeding 8 passengers;*
- ii) save for this Policy could not currently be licensed by the Council as a private hire vehicle; and*
- iii) is not a decommissioned military or emergency service vehicle.*

All references to limousine within this Policy assume compliance with the above definition.

**B2 Licensing Conditions**

B2.1 Unless specifically stated otherwise below, all requirements relating to the licensing of private hire vehicles apply to limousines.

The requirements below are additional requirements specifically for limousines licensed as private hire vehicles.

B2.2 Left-Hand Drive

B2.2.1 Left-hand drive limousines will be permitted as private hire vehicles

B2.3 Seating

B2.3.1 Sideways facing seating will be permitted in limousines providing that it conforms with all relevant road traffic vehicle legislation.

B2.4 Roadworthiness

B2.4.1 All limousines licensed as private hire vehicles must hold a valid Single Vehicle Approval (SVA) Certificate.

B2.5 Insurance

B2.5.1 All limousines licensed as private hire vehicles must have appropriate insurance to cover the provision of a service to the public for hire and reward, taking into account the specification of the vehicle.

B2.6 Tyres

B2.6.1 Given the increased weight of the vehicle, the vehicle must be fitted with tyres of appropriate size and grade to conform with its Single Vehicle Approval (SVA) Certificate.

B2.7 Vehicle Testing

B2.7.1 All limousines licensed as private hire vehicles must obtain six-monthly test certificates showing that the vehicle has satisfied the standards of the appropriate MOT Class. The vehicle licence holder is responsible for sourcing a garage approved to carry out such tests and providing documentation attesting to the garage's compliance with the requirements of Section B4 of this Policy.

B2.8 Carrying of Passengers

B2.8.1 All limousines licensed as private hire vehicles must reduce their seating capacity to a maximum of eight passengers.

B2.8.2 Passengers shall not be permitted to be carried in any seats in the driver's compartment.

B2.8.3 The vehicle must not carry more than eight passengers at any time. For the purpose of counting passengers, a child of any age will be classed as a passenger.

- B2.9 Advertising
- B2.9.1 In any advertisement publicising a limousine service, the advertisement must state that the vehicle is only licensed to carry eight passengers.
- B2.10 Seat Belts
- B2.10.1 Seatbelts complying to all relevant legislation must be fitted to all forward and rear facing seats and must be worn by passengers at all times the vehicle is in motion.
- There is no legal requirement for seatbelts to be fitted on sideways facing seats, however, if they are fitted they must be worn by passengers at all times the vehicle is in motion.
- B2.11 Provision of Alcohol
- B2.11.1 Alcoholic drinks may only be provided in the vehicle when the vehicle is complying with all relevant requirements of the Licensing Act 2003.
- B2.11.2 Alcohol shall only be served whilst the vehicle is stationary. Whilst the vehicle is in motion, all receptacles containing alcohol shall be securely stored.
- B2.11.3 If any occupants of the vehicle are below the age of eighteen years old, the vehicle must not contain any alcohol.
- B2.11.4 All glassware used in the vehicle must be made of shatterproof glass, or alternatively be made of plastic. The vehicle proprietor should also be aware of the Council's Statement of Licensing Policy in respect of the Licensing Act 2003.
- B2.12 Provision of Entertainment
- B2.12.1 The driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the youngest passenger in the vehicle.
- B2.12.2 The limousine proprietor shall ensure that a Performing Rights Society (PRS) Licence and Phonographic Performance Licence (PPL) are held for the vehicle, where appropriate.
- B2.12.3 If the limousine parks to provide some form of licensable entertainment for its passengers, only entertainment complying with the relevant requirements of the Licensing Act 2003 shall be permitted.
- B2.13 Luggage
- B2.13.1 Limousines licensed as private hire vehicles are not permitted to carry luggage within the passenger compartment of the vehicle.
- B2.14 Safety Hammer

B2.14.1 Limousines licensed as private hire vehicles must carry a safety hammer capable of being used to break the window glass of the vehicle. The hammer must be securely located within the driver's compartment.

### **B3 Driver and Operator Licensing Requirements**

B3.1 A proprietor offering limousines licensed as private hire vehicles for hire in North Hertfordshire must hold a private hire operators' licence with The Council.

B3.2 All bookings for a limousine licensed as a private hire vehicle must be booked through the licensed private hire operator.

B3.3 Once licensed in North Hertfordshire as a private hire vehicle the limousine can only be driven by a private hire driver licensed by The Council. This applies at all times whilst the vehicle holds a private hire vehicle licence.

B3.4 All drivers and operators of limousines licensed as private hire vehicles are required to satisfy all appropriate requirements of this Policy.

### **B4 Vehicle Testing Stations**

B4.1 Limousines licensed as private hire vehicles will be required to provide six-monthly MOT certificates from a VOSA goods vehicle testing station, or alternatively a VOSA approved class 5 testing station, that has appropriate facilities.

B4.2 If you propose to obtain an MOT from any vehicle testing station other than those listed in Section B4.1 of this Policy, you are advised to contact the Council before submitting the vehicle for an MOT, otherwise you may find that the certificate cannot be accepted.

## **APPENDIX C**

### **APPLICATION PROCEDURES**

#### **C1 Vehicles**

C1.1 When presenting an application, the following documents **MUST** accompany the prescribed application form and fee, the application will not be considered complete until all documentation has been received (see Section 2.11.2 of this Policy):

- (i) **REGISTRATION DOCUMENT**  
(which must show the vehicle as belonging to the applicant either wholly or jointly with any other person(s) hereinafter described as proprietor(s) thereof);
- (ii) **INSURANCE CERTIFICATE** (for use as a hackney carriage or private hire vehicle as applicable)  
(if a cover note, licence holders will be required to produce a valid insurance certificate on or before the expiry of the cover note.

Certificates of Insurance with less than one calendar month until expiry will not be accepted)

- (iii) MOT CERTIFICATE (including an Emission Test Certificate)
- (iv) ENGINEER'S REPORT (also known as a compliance certificate)

- C1.2 The application form, fee and original documentation must be provided to the Council either by post, or by hand delivery to the Customer Service Centre at Gernon Road, Letchworth Garden City.
- C1.3 Appointments with an Officer for knowledge tests and CRB's can only be made on Wednesday's between 9:00hrs and 17:00hrs, except in exceptional circumstances. Written knowledge tests are only available on the first Wednesday of each month and verbal knowledge tests are only available on the second, third, fourth and fifth (if applicable) Wednesday of each month. CRB appointments are available every Wednesday.
- C1.4 Plates and paper licences can be collected from the Customer Service Centre by prior arrangement or sent in the post. Documentation may be left at the Customer Service Centre for forwarding to an Officer without an appointment.
- C1.5 Prior to submitting the vehicle for testing, owners must ensure that the vehicle is in good condition, i.e., mechanically sound, bodywork in a satisfactory condition. The Council's approved garage may ask for the engine and/or full chassis to be steam cleaned if the vehicle is presented in a state whereby the components are too dirty to inspect.
- C1.6 Owners of vehicles will be subject to a re-charge fee in respect of vehicles that have to be re-submitted for a second inspection test on the grounds of mechanical/M.O.T. related re-inspections pertaining to the specified requirements for hackney carriage or private hire vehicles.

## **C2. Drivers**

- C2.1 Applications for hackney carriage or private hire drivers' licences may be made at any time of the year. This is subject to the requirements of Section 3 of this Policy.
- C2.2 Applications are to be made on the prescribed application form.
- C2.3 In support of a completed application form, the applicant must provide the following original documentation:
- (i) a current full driving licence (including paper counterpart sheet if a photocard licence);
  - (ii) enhanced disclosure from the CRB, which may be obtained through the Council;
  - (iii) the specified fee, which may be refundable in the event of refusal of the licence, less an appropriate administrative charge (see Section 9.3.4 of this Policy);
  - (iv) a medical certificate (if applicable)
  - (v) a DSA pass certificate (if required)
  - (vi) two passport-sized photographs of the applicant

### **C3 New Driver Knowledge Tests**

#### **C3.1 Introduction**

C3.1.1 In order to maintain the high standards that the Council expects of its hackney carriage drivers operating within the District, all new drivers are required to pass a knowledge test.

The test will consist of two parts, one written and one verbal, and both parts must be passed to be considered for a hackney carriage driver's licence.

C3.1.2 The Council acknowledge that the same level of instant geographical knowledge of the District is not as necessary for private hire vehicle driver's. All private hire is pre-booked and so the driver has the opportunity to research the destination prior to departure.

An applicant will only be required to pass the verbal part of the knowledge test in order to be considered for a private hire driver's licence.

#### **C3.2 Test Composition**

C3.2.1 Applicants will be tested on their knowledge of the relevant zone of North Hertfordshire in which they intend to operate. Questions for the written test may include:

- i) the shortest route between locations,
- ii) the locations of prominent buildings, such as hotels, surgeries, schools, place of interest, etc.,
- iii) the highway code
- iv) the Council's Hackney Carriage and Private Hire Licensing Policy,
- v) customer care, including calculation of change for a given fare, and basic conversation, etc.

Questions for the verbal test may include geographical questions as detailed in i) and ii) above, and will include highway code, this Policy and customer care.

C3.2.2 Forty-five minutes is allowed for the thirty question written test and fifteen minutes for the verbal test.

The pass mark for the written test is twenty-five out of thirty, whilst the pass mark for the verbal test is twelve out of fifteen.

C3.2.3 A pass must be achieved in both the written and verbal tests to satisfy the Driver Knowledge Test for a hackney carriage driver.

#### **C3.3 Driver Test Failure**

C3.3.1 Applicants who fail to achieve a pass in either of the written or verbal tests shall fail the Driver Knowledge Test and be invited to take a different test on another occasion.

C3.3.2 Three attempts to pass the tests are permitted in any one twelve month period. After a third failure, no further tests will be permitted until the period of

six months from the date of the first test has elapsed. A fee will be charged for each test attempt.

#### **C4 The consideration of applications**

C4.1 Upon receipt of a completed application form, including the fee and all supporting documentation, the Council will consider the application. Where the application is incomplete, it will not be considered until all the missing details or documents are supplied.

C4.2 If satisfied that an applicant is a 'fit and proper person' to hold a hackney carriage or private hire licence, having satisfied all the licensing requirements, the application will be granted under delegated powers as provided for by the Council's Scheme of Delegation.

C4.3 Successful applicants will be notified in writing and issued with the appropriate paper licence.

Those who are granted drivers' licences shall be issued with a drivers' badge, which shall remain the property of the Council and must be surrendered when the driver ceases employment as a driver.

Those who are granted vehicle licences shall be issued with a Licence Plate, which shall remain the property of the Council and must be surrendered when the driver ceases employment as a driver or the vehicle is changed under the 'replacement vehicle policy'.

C4.4 Where the Licensing and Enforcement Manager is not satisfied that the applicant should be granted a licence, the matter must be referred to the Head of Housing and Public Protection Services. The applicant will be advised of the date, time and venue of the meeting at which the application will be considered.

C4.5 In preparation for the meeting with the Head of Housing and Public Protection Services, all parties in attendance will receive a report in advance from the Licensing Officer.

At the meeting, the Head of Housing and Public Protection Services shall hear representations from the applicant and may ask any pertinent questions, before deciding upon whether a licence should be granted. The applicant will be told of the outcome at the conclusion of the meeting and this will be confirmed in writing within seven days.

C4.6 Unsuccessful applicants will be informed of their right to appeal against the decision to the magistrates' court within twenty one days of receipt of the formal notice of refusal of the application.

#### **C5 Criminal Conviction Certificate's (Criminal Records Bureau checks)**

C5.1 New Applicants

C5.1.1 No application for a new hackney carriage or private hire driver's licence will be considered without an enhanced CRB disclosure satisfying the requirements of this Policy.



## C5.2 Applications for Renewal

C5.2.1 Applications for the renewal of a hackney carriage or private hire driver's licence may be considered in the absence of a current (less than three months old) enhanced CRB disclosure, in exceptional circumstances, providing that:

- i) the CRB disclosure has been applied for, and
- ii) the applicant has signed a Disclosure of Convictions Declaration that states that the applicant has not received any relevant convictions, cautions or fixed penalty notices since the date of the previous enhanced CRB disclosure.

C5.2.2 If the subsequent CRB disclosure highlights a relevant conviction, the driver's licence may be suspended or revoked in accordance with this Policy. In addition, the driver may be prosecuted for failing to advise of the relevant conviction and for making a false declaration as part of the application process.

C5.2.3 This section is discretionary and allows for applications to be processed whilst waiting for a current (less than three months old) CRB disclosure to be returned from the CRB in exceptional circumstances only.

C5.2.4 Ordinarily, a current (less than three months old) CRB disclosure will be required as part of the application process before an application will be considered.

## **APPENDIX D**

### **POLICY ON THE RELEVANCE OF CONVICTIONS AND CAUTIONS**

#### General

Notwithstanding the existence of this policy, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons will be given for doing so. The purpose of this appendix is to formulate guidelines, consistent with national guidance, which detail the Council's current stance on the relevance of convictions and cautions in respect of applications for the grant of new licences, and the renewal of existing licences, for hackney carriage and private hire vehicle, driver and operator licences.

If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. If they seek to do so, their representation will not be considered as this is entirely a matter for the courts. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

For the purpose of this Policy, the acceptance of a fixed penalty notice will be treated as a conviction. A caution may be treated as a conviction depending on the individual merits and mitigating circumstances of each case.

The legislation clearly states that the Council may grant a licence only if it is satisfied that the applicant is a 'fit and proper' person.

**The onus is on the applicant to demonstrate that they meet this requirement, not on the Council to demonstrate that the applicant does not.**

#### 'Fit and proper' person

In the absence of a judicially approved definition of "fit and proper", the Council use the test of:

*Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone?*

The wording of this test originates from Mr J T H Button BA, Solicitor, MIL, MClarb, a well known and respected solicitor widely acknowledged as an authority in licensing legislation, particularly that of hackney carriages and private hire.

In order to further assist in understanding the interpretation of this definition, the Council will be considering issues that assist them in determining whether or not applicants are safe drivers with a good driving records, are mentally and physically fit, are honest, and that they are persons who would not take advantage of their position to abuse, assault or defraud members of the public.

It should be borne in mind that drivers may carry vulnerable members of the public such as elderly persons, unaccompanied children, disabled persons, persons who are incapacitated from alcohol, lone women and foreign visitors. Some examples of areas of concern that the Council will consider include, but are not limited to:

(i) Honesty and trustworthiness

Drivers often have knowledge that a customer is leaving a property empty; they have opportunities to defraud drunken, vulnerable or foreign persons; or they have opportunities to abuse their position of trust. For example, all passengers would

expect to be charged the correct fare for the journey and be given the correct change; they would expect any lost property to be handed over to the police; and they would expect confidentiality to be maintained between themselves and the driver.

(ii) Professionalism

Drivers are often subject to unpleasant, abusive or dishonest behaviour, albeit from a small minority of passengers. Although this is clearly unacceptable behaviour, the Council expects drivers to remain professional at all times and unacceptable behaviour by passengers does not excuse in any way aggressive or abusive conduct by drivers. Confrontation should be avoided and all disputes should be resolved through the formal legal channels. Under no circumstances must drivers take the law into their own hands.

(iii) Good and safe driving ability

Passengers are paying for a service whereby they expect to reach their chosen destination promptly and safely. Drivers must be fully conversant with all road traffic legislation and this Policy and drive in a professional, lawful and safe manner at all times.

## D1. Protecting the Public

D1.1 The over-riding consideration for the Council in its determination of applications is the promotion of the licensing objectives detailed within section 1.3 of this policy, in particular the protection of public safety.

## D2. History

D2.1 The Council may take into account an applicant's history as a licence holder with this, or any other, Council. In considering whether or not a person is 'fit and proper' the Council may consider such matters as the applicant's complaint history, their compliance with this Policy, their co-operation with Licensing Officers' requests, and any other reasonable matters.

## D3. Driving Offences

D3.1 Hackney carriage and private hire drivers should provide a professional service to the public and must be aware of the safety of passengers and other road users at all times. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the level of driving standards.

D3.2 Convictions or cautions for traffic offences will not automatically preclude an applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered. In some circumstances it may be appropriate to issue a licence together with a written warning as to future driving standards detailing the likely effect of further offences. Where there is a significant history of driving offences, an application is likely to be refused.

### D3.4 Five penalty points or less on a current DVLA driving licence

D3.4.1 In cases of five penalty points or less on an applicant's DVLA driving licence, an application will usually be granted.

D3.4.2 A licence granted under these circumstances is likely to be issued together with a verbal warning as to future driving standards detailing the likely effect of further offences.

### D3.5 Six or more penalty points on a current DVLA driving licence

D3.5.1 In cases of six penalty points or more on an applicant's DVLA driving licence, an application may be granted depending on the nature of the offences and the frequency.

D3.5.2 A licence granted under these circumstances is likely to be issued together with a written warning as to future driving standards detailing the likely effect of further offences.

### D3.6 Major traffic offences

D3.6.1 For the purposes of this section, major traffic offences includes, but is not limited to, dangerous driving, driving whilst disqualified, failure to stop after an accident, driving with no/invalid insurance, careless driving, and driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc)

D3.6.2 The driving offences of causing death by dangerous or careless driving, due to their nature, will be considered by the Council to be violent offences and should be considered in conjunction with the section of this appendix relating to violent offences.

D3.6.3 If the applicant has been convicted of more than one major traffic offence then a licence application will normally be refused until the applicant has completed a period of at least two years free from conviction. Where the combination of offences are considered to be of increased risk to the public, a period longer than two years may be substituted by the Council dependant on the extent of the risk to the public.

### D3.7 "Totting Up" under section 35 of the Road Traffic Offenders Act 1988

D3.7.1 Where an applicant has been disqualified from driving by the courts under the "totting up" procedure, the Council will normally refuse an application until there has been a period of twelve months free of relevant convictions.

D3.7.2 If the applicant has demonstrated to the court "exceptional hardship" and avoided a driving disqualification, applications will still normally be refused until there has been a period of twelve months free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.

### D3.8 Motor Insurance Offences

D3.8.1 An isolated motor insurance offence will not automatically preclude an application from being granted, however the Council deem such offences to be serious given the risk to the public.

D3.8.2 More than one conviction for motor insurance offences will be considered to raise serious doubts as to an applicant's suitability to hold a hackney carriage or private hire driver's licence. Ordinarily in these circumstances, an application will be refused until such time as a period of three years has elapsed since the restoration of the applicant's DVLA driving licence.

### D3.9 Failure to Declare Motoring Offences

D3.9.1 Where an applicant fails to disclose motoring offences on their application form, even if they have been declared on previous applications or are spent, the council will normally deal with this by way of the issuing of penalty points.

D3.9.2 If, however, the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this policy.

#### **D4. Drunkenness**

D4.1 Separate consideration will be given to convictions for drunkenness whilst in charge of a vehicle as opposed to drunkenness whilst not in charge of a vehicle due to the differing risk to the public.

##### **D4.2 In Charge of a Motor Vehicle**

D4.2.1 The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence causing a high element of risk to the public.

D4.2.2. An isolated incident will not automatically preclude an application from being granted. A single conviction for any alcohol-related driving offence will normally preclude an application from being granted for a period of five years from the restoration of the DVLA driving licence.

D4.2.3 If there is a suggestion that the applicant is an alcoholic, a special medical examination is likely to be required before the application is considered. If the applicant is confirmed as an alcoholic, a period of three years must elapse after treatment is complete before an application can be considered.

D4.2.4 More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will normally be refused.

##### **D4.3 Not in Charge of a Motor Vehicle**

D4.3.1 An isolated conviction for drunkenness not associated with driving or being in charge of a motor vehicle will not automatically preclude an application.

D4.3.2 Where there is an isolated conviction for disorder and/or drunkenness, a licence will normally be granted together with a verbal warning as to future driving standards detailing the likely effect of further offences.

D4.3.3 More than two convictions for disorder and/or drunkenness will normally lead to refusal of an application until such time as a period of three years free of convictions has elapsed.

#### **D5. Drug Offences**

D5.1 The Council considers all offences related to controlled substances as a serious risk to the public.

- D5.2 An applicant with a conviction for any Class A or Class B drug related offence, including supplying or trafficking, will be required to show a period of five to ten years free of convictions before an application is considered. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.
- D5.3 An applicant with a conviction for any Class C drug related offence will be required to show a period of at least three years free of convictions before an application will be considered.
- D5.4 In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

## **D6. Sexual or Indecency Offences**

- D6.1 As hackney carriage and private hire drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction or caution for any sexual or indecency offence (other than a major offence – see paragraph D6.3 below) will normally be refused a licence until such time as they have been free of convictions for a period of seven to twelve years. The length of period over and above the minimum seven years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.
- D6.2 Existing licence holders should be aware that if the Council receives notification from the police that a driver is being investigated for a sexual or indecency offence, their licence will normally be suspended with immediate effect pending the outcome of the investigation.

### **D6.3 Major Sexual or Indecency Offences**

- D6.3.1 For the purpose of this Policy, the following offences will be considered as major sexual or indecency offences with the highest element of risk to the public:

- (i) rape;
- (ii) indecent assault;
- (iii) gross indecency;
- (iv) possession of child pornography;
- (v) buggery; or
- (vi) indecent assault of a child

- D6.3.2 Any applicant with a conviction for a major sexual or indecency offence will be considered an unacceptable risk to the public and any application will be refused, save for exceptional circumstances.

## **D7. Violent Offences**

- D7.1 The Council considers all violence related offences as a serious risk to the public.
- D7.2 An application will normally be refused where the applicant has been convicted of murder, manslaughter, or causing death by careless or dangerous driving.
- D7.3 An application will normally be refused where the applicant has a conviction for a violent offence, other than those listed in 7.2 above, unless there has been a period of five to ten years free of convictions. The length of period over and above the

minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

D7.4 Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.

D7.5 Whilst an isolated conviction for a violent offence, other than those listed in 7.2 above, will not normally permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences.

#### D7.6 Multiple Offences

D7.6.1 In cases where an applicant has more than two convictions for violent offences, an application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

#### D7.7 Possession of a Weapon

D7.7.1 If an applicant has been convicted of an offence involving the possession of a weapon, or any other weapon-related offence, the Council considers this to be an unacceptable risk to members of the public and the application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

### D8. Dishonesty

D8.1 Hackney carriage and private hire drivers are expected to be persons of trust. It is comparatively easy for dishonest drivers to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become vulnerable to an unscrupulous driver. Equally, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining lost property left in the vehicle.

D8.2 As members of the public entrust themselves to the care of licensed drivers, the council consider offences involving dishonesty as a serious risk to public safety.

D8.3 An applicant that has been convicted of an offence related to dishonesty will normally be refused a licence until such time as they have been free of convictions for a period of five to ten years. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

### D9. Other Offences and Special Circumstances

D9.1 If the applicant has declared any other offences not specifically covered by this policy on the relevance of convictions, or the specific circumstances of the application justify it, the application may be referred to the Head of Housing and Public Protection Services for determination in line with the principles of this policy.

D9.2 Receipt of any of the following may result in the licence holder being required to provide annual CRB disclosures until a period of five years has expired:

- (i) criminal conviction;
- (ii) final warning letter from the Council;
- (iii) period of suspension of an existing licence.

## **D10. Summary**

- D10.1 Except in the most serious of circumstances, an applicant having a previous or current conviction will not normally be permanently precluded from obtaining a hackney carriage or private hire driver's licence.
- D10.2 The Council believe that a person convicted of an offence, who is required to wait for the expiry of a rehabilitation period prior to their application being considered, is more likely to value their licence and ensure that future convictions are avoided.
- D10.3 The Council consider that there are, however, certain offences that are so serious in nature or frequency that an applicant should be precluded from obtaining or retaining a licence. The Council's over-riding policy objective is to safeguard the safety of the general public by ensuring that all licensed drivers are safe, competent, and are able to maintain their vehicles to an acceptable standard.
- D10.4 By producing clear and transparent guidelines on the relevance of convictions, the Council is seeking to maintain the high standard of hackney carriage and private hire drivers, proprietors and operators within North Hertfordshire.

### Existing Licence Holders

Any existing licence holder convicted of an offence during the period of their current licence will be subject to the above policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked.

### Principles of the Rehabilitation of Offenders Act 1974 ("the 1974 Act")

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before rehabilitation occurs, depends on the sentence imposed and not the offence committed. Where a person is sentenced to imprisonment for a period exceeding thirty months, the conviction can never be spent.

Despite the above general principles, the Act does not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of these vehicles is listed as a "regulated occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Although the 1974 Act does not prevent any judicial authority, including the Council acting as the licensing authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.

The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.

## **APPENDIX E**

### **PRIVATE HIRE DRIVER'S LICENCE CONDITIONS**

#### **E1 Conduct of Driver**



- E1.1 The holder of a private hire driver's licence (hereafter known in this Appendix as the driver) shall comply with the following conditions, which should be read in conjunction with the Code of Good Conduct set out in **Appendix F**.
- E1.2 The driver shall be respectably dressed, clean and tidy in appearance at all times whilst his vehicle is being made available for hire.
- E1.3 The driver shall at all times, when acting in accordance with the drivers licence granted to him, wear such badge as supplied by the Council in such position and manner as to be plainly and distinctly visible at all times.
- The driver shall not lend the badge to any other person, or cause or permit any other person to wear it.
- On termination or surrender of a driver's licence, the driver shall return the badge to the Council immediately.
- E1.4 The driver shall behave in a civil, polite and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, or entering or alighting from, the vehicle.
- E1.5 The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed from public view, or allow the Licence Plate to be so defaced as to make any figure or information illegible.
- E1.6 The driver who has agreed to, or has been hired to, be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at such appointed time and place.
- E1.7 The driver, when hired to drive to a particular destination, shall proceed to that destination by either the shortest available route, or the believed cheapest route considering all known factors such as roadworks, delays, etc.
- E1.8 The driver shall not convey, or permit to be conveyed, in such vehicle any greater number of persons than the number of persons specified on the Vehicle Licence.
- E1.9 The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.
- E1.10 The driver must not solicit, by calling out or otherwise importune, any person to hire or be carried for hire and must not accept an offer for the hire of the vehicle except where that is first communicated to the driver by telephone.
- E1.11 The vehicle shall be presented in a clean and tidy condition for each journey.
- E1.12 The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.
- E1.13 The driver must comply with any hirer's request not to smoke, drink or eat in the vehicle, or play any radio or sound equipment, which is not connected with the operation of the business.
- E1.14 The driver must ensure that the noise emitted from any sound equipment in

the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.

E1.15 The driver shall not operate the horn as a means of signalling that the vehicle has arrived.

E1.16 The driver must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank, or in a public place so as to suggest that it is plying for, or available for, hire.

E1.17 Drivers must not use a mobile phone whilst driving unless it is designed for hands-free operation.

## **E2 Fitness of Driver**

E2.1 The driver of a private hire vehicle must at any time, or at such intervals as the Council may reasonably require, produce a certificate issued by a Registered Medical Practitioner to the effect that he is, or continues to be, physically fit to be a driver of a private hire vehicle.

E2.2 Whether or not such a Certificate is produced, the driver must, if required by the Council at any time, undergo a medical examination by a Registered Medical Practitioner selected by the Council.

E2.3 The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their:

- i) driving ability or
- ii) the health and safety of themselves or any passengers.

(see paragraph 3.5 of this Policy)

## **E3 Fares and Journeys**

E3.1 The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.

E3.2 The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.

E3.3 If the private hire vehicle is fitted with a taxi-meter, then the driver of a private hire vehicle must:

- (i) unless the hirer expresses at the commencement of the journey his desire to engage by time, bring the meter into operation at the commencement of the journey, and
- (ii) bring the machinery of the taxi-meter into action by moving the said key, flag or other device, so that the word 'HIRED' is legible on the face of the taxi-meter before beginning a journey and keep the machinery of the taxi-meter in action until the termination of the hiring.
- (iii) when standing, keep the key, flag or other device fitted for that purpose locked in the position in which no fare is recorded on the face of the meter.

- (iv) cause the dial of the taxi-meter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request of the hirer.
- (v) not demand from any hirer of a private hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taxi-meter.

E3.4 In the event of a journey commencing in but ending outside the District of North Hertfordshire there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was affected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taxi-meter.

#### **E4 Duties of Licence Holder**

E4.1 Any change affecting this licence must be notified to the Council. Notification should be as soon as reasonably practicable and in any event, no later than seven days after the change was effected.

E4.2 The private hire driver's licence must be made available for inspection, on request, by any Authorised Officer of the Council or any Police Officer.

E4.3 The driver must notify the Council, within seven days of starting or terminating employment, as to the name and address of the proprietor concerned and the date when the employment either started or ended.

E4.4 The private hire driver's licence must be presented to the proprietor concerned at the beginning of an employment.

E4.5 All licences, badges and plates remain the property of the Council at all times. They must be returned forthwith when employment as a licensed driver permanently ceases, the licence expires and is not renewed, or where the licence is suspended or revoked.

E4.6 The driver must notify the Council within a period of seven days of:

- i) any conviction for an offence, or
- ii) any receipt of a fixed penalty imposed on him

whilst the licence is in force.

#### **E5 Lost Property**

E5.1 A driver of a private hire vehicle shall diligently search the vehicle periodically for any property which may have been accidentally left therein. Any property found and not subsequently claimed within seven days should be taken to the nearest Police Station and leave it in the custody of an authorised officer after obtaining a receipt.

#### **E6 Accident Reporting**

E6.1 In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a private hire vehicle causing damage materially affecting:

- i) the safety, performance or appearance of the vehicle, or
- ii) the comfort or convenience of the passengers,

must be reported to the Council as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof.

## **E7 The Carriage of Animals**

E7.1 A driver must not carry in a private hire vehicle any animal whilst it is being used as a private hire vehicle, save for the exemptions detailed in Sections E7.2 and E7.3 of this Policy.

E7.2 Animals in the custody of passengers may be carried, at the driver's discretion, provided they are restrained in a safe manner.

E7.3 A driver must carry assistance dogs when required. Assistance dogs include guide dogs for the blind or partially sighted, hearing dogs for the hard of hearing, and other assistance dogs which assist disabled people with a physical impairment.

E7.4 Any driver with a medical condition, which may be exacerbated by dogs, may apply for exemption from this condition. On production of suitable medical evidence, a certificate of exemption will be issued which must be carried in the vehicle at all times. Unless the certificate of exemption is available in the vehicle, the exemption will not apply.

## **E8 Wheelchair Accessible Vehicles**

E8.1 All drivers of wheelchair accessible vehicles must:

- (i) be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
- (ii) before any movement of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.
- (iii) ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers, or to anyone else, in accordance with the regulations detailed in Section 100 of the Road Vehicles (Construction and Use) Regulations 1986.

## **APPENDIX F**

## **CODE OF GOOD CONDUCT FOR LICENSED DRIVERS**

This Code of Good Conduct should be read in conjunction with the other statutory and policy requirements set out in this document. Ordinarily, but without prejudice to any other disciplinary procedures detailed in this Policy, breaches of the Code of Good Conduct will be dealt with by use of the Penalty Points System contained within **Appendix J**.

### **F1 Responsibility to the Trade**

Licence holders shall endeavour to promote the image of the hackney carriage and private hire trade by:

- (i) complying with this Code of Good Conduct;
- (ii) complying with the Council's Hackney Carriage and Private Hire Licensing Policy;
- (iii) behaving in a civil, orderly and responsible manner at all times.

### **F2 Responsibility to the Public**

Licence holders shall:

- (a) maintain their vehicles in a safe and satisfactory condition at all times;
- (b) keep their vehicles clean and suitable for hire to the public at all times;
- (c) attend punctually when undertaking pre-booked hiring;
- (d) assist, where necessary, passengers' ingress to and egress from vehicles;
- (e) offer passengers reasonable assistance with luggage;
- (f) behave in a professional and respectful manner at all times.

### **F3 Responsibility to Residents**

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

- (a) not sound the vehicle's horn illegally;
- (b) keep the volume of all audio equipment and two-way radios to a minimum;
- (c) switch off the engine if required to wait;
- (d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.
- (e) at hackney carriage ranks, in addition to the requirements above:
  - (i) rank in an orderly manner and proceed along the rank in order and promptly;
  - (ii) remain in the vehicle.
- (f) at private hire offices:
  - (i) not undertake servicing or repairs of vehicles, unless the property has the appropriate planning permission;
  - (ii) not allow volume of all audio equipment and two-way radios to unduly disturb residents of the neighbourhood;

- (iii) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood, which might arise from the conduct of their business.

#### **F4 General**

Drivers shall:

- (a) pay attention to personal hygiene and dress, so as to present a professional image to the public;
- (b) be polite, helpful and fair to passengers;
- (c) drive with care and due consideration for other road users and pedestrians and, in particular, shall not use a hand held mobile phone whilst driving;
- (d) obey all Traffic Regulation Orders and directions at all time;
- (e) not smoke at any time when inside the vehicle;
- (f) not consume alcohol\* immediately before, or at any time whilst, driving or being in charge of a hackney carriage or private hire vehicle;
- (g) not drive while having misused legal or illegal drugs\*;
- (h) fulfil their responsibility to ensure compliance with legislation regarding the length of working hours.
- (i) not eat in the vehicle in the presence of customers.

#### **F5 Disciplinary Hearings**

Drivers should be aware of the powers the Council has to take action, by way of suspension, revocation or refusal to renew a driver's licences where:

- (i) the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence
- (ii) the driver has been convicted of an offence under any legislation relating to hackney carriage or private hire vehicle regulation
- (iii) the driver has breached any requirements of the Council's Hackney Carriage and Private Hire Licensing Policy
- (iii) there is a breach of condition of this code

Details of the workings of the disciplinary hearings are set out in Section J9 of this Policy.

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

#### **F6 Special Policy relating to Bancroft Rank in Hitchin**

Due to the nature of Bancroft during the working day, it has been previously agreed with Hitchin drivers that no U-turns will be allowed in Bancroft between the hours of 07:00hrs and 20:00hrs. The Council consider that this restriction is still necessary, however, will review the restriction if circumstances change.

#### **APPENDIX G**

## **DRESS CODE FOR LICENSED DRIVERS**

### **Objectives**

The Council is committed to encouraging the professional image of the trade. The Council considers that drivers should conform to a minimum standard of dress, as set out below, in order to:

- raise and maintain the profile of the licensed trade
- promote confidence amongst members of public to ensure passengers feel comfortable when using licensed vehicles
- promote public safety by ensuring the safe operation of licensed vehicles at all times and that licensing drivers are readily identifiable

The Council does not impose such standards by way of conditions to any licence. It is expected, however, that such standards will be maintained at all times.

Ordinarily, but without prejudice to any other disciplinary procedures detailed in this Policy, breaches of the Dress Code for Licensed Drivers will be dealt with by use of the Penalty Points System contained within **Appendix J**.

### **G1 Unacceptable Standards of Dress within this Code**

The following are deemed to be unacceptable:

- (i) Bare chests
- (ii) Clothing or footwear which is unclean or damaged
- (iii) Clothing printed with words, logos or graphics which might offend
- (iv) Sports shirts e.g. football, rugby or cricket tops or track suits
- (v) Footwear that prevents the safe operation of the licensed vehicle
- (vi) Headgear that partially or completely conceals the face or the identity of the licensed driver e.g. baseball caps
- (vii) Shorts, other than smart tailored shorts

### **G2 General**

The above lists are not exhaustive and Authorised Officers of the Council will assess whether standards of dress are acceptable or not. In such instances, the Officer's decision will have effect as though it were included in the above lists and the licensed driver will be required to comply accordingly.

## **APPENDIX H**

## **PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS**

### **H1 Standards of Service**

The operator shall:

- (a) provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- (b) ensure that their office staff act in a civil and courteous manner at all times.
- (c) ensure that when a vehicle has been hired, it arrives punctually at the appointed place, unless delayed by unforeseen circumstances.
- (d) ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated.
- (e) ensure that any waiting area provided has adequate seating facilities and that telephone facilities are in good working order.
- (f) fulfil his responsibilities to ensure compliance with legislation regarding the length of working hours.

### **H2 Records**

Records, which must be kept by private hire operators under the Local Government (Miscellaneous Provisions) Act 1976, shall be kept in a non-erasable form in a suitable log or book, the pages of which are numbered consecutively.

#### **H2.1 Bookings**

H2.1.1 Prior to each journey, the operator shall enter the following particulars of every booking of a private hire vehicle accepted, pursuant to Section 56 (2) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- (i) date of the booking
- (ii) name and address of the hirer
- (iii) time of pick-up
- (iv) address of the point of pick-up
- (v) destination
- (vi) time at which a driver was allocated to the booking
- (vii) plate number (or other identification) of the vehicle allocated
- (viii) fare (if agreed between the operator and hirer at the time of booking)

#### **H2.2 Vehicles**

H2.2.1 The operator shall keep records of the particulars of all private hire vehicles operated by him, pursuant to Section 56 (3) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- (i) type, make, model, colour and engine size of vehicles
- (ii) year when the vehicle was first licensed for private hire
- (iii) vehicle registration numbers
- (iv) number of seats for passengers



- (v) owners of the vehicles
- (vi) insurance details of vehicles
- (vii) method of charging, i.e. whether or not a meter is fitted
- (viii) private hire vehicle plate numbers

## H2.3 Drivers

H2.3.1 The operator shall keep records of the particulars of all drivers of private hire vehicles operated by him, pursuant to Section 56 (3) of the Local Government (Miscellaneous Provisions) Act 1976, namely details:

- (i) as to the drivers of the vehicles, and their call signs
- (ii) of when any new driver begins service
- (iii) of when any driver's service ceases
- (iv) of any change of address of any driver in service
- (v) of any illness, disability or condition which may affect the driver's ability to safely carry out his duties, (if the operator becomes aware of any such condition)
- (vi) of expiry dates of driver's badges and vehicle licences

H2.4 All records maintained by the operator shall be kept for at least twelve months after entry and shall be produced for inspection, on request, by any Authorised Officer of the Council or any Police Officer.

## H3 Complaints

The operator shall notify the Council in writing of any complaints concerning a contract for hire arising from his business that he feels prudent to do so, for example for his own protection against frivolous or vexatious complaints. Such notification must include the action taken, or proposed, as a result of the complaint.

## H4 Change of Details

The operator shall notify the Council in writing of any change affecting this licence including change of personal or business address which takes place during the period of duration of the licence. Such notice shall be given as soon as reasonable practicable and, in any case, no later than seven days of the change.

## H5 Disclosure of Convictions

The operator shall, within seven days of conviction, notify the Council in writing of any conviction or fixed penalty imposed on him during the period of duration of his operator's licence.

If the operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a conviction or fixed penalty.

## H6 Insurance

The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated by him under the operator's licence, which is compliant with the Road Traffic Act 1988 as regards the carriage of passengers for hire or reward.

If the private hire operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using those premises.

#### **H7 Private Hire Drivers' Licences**

The operator shall ensure that every driver engaged by him has obtained a private hire driver's licence from the same Licensing Authority which issued the private hire operator's licence. The operator shall use their best endeavours to ensure that all drivers have a badge issued by the Council and that the drivers wear the badge at all times whilst available for hire.

#### **H8 Display of Terms and Conditions**

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

#### **H9 Inspection of Licence**

The private hire operator's licence shall be available for inspection on request by any Authorised Officer of the Council or any Police Officer.

#### **NOTE: PLANNING CONSENT**

To operate a private hire business from home, planning permission may be required. A private hire operator's licence will not be granted without evidence that either planning permission has been issued for the premises concerned, or planning permission is not required for the limited use proposed

## **APPENDIX I**

### **HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT POLICY AND PRACTICE**

## **I1 Enforcement Policy Statement**

- I1.1 It is the policy of The Council to ensure that all drivers, vehicles and operators are licensed correctly and carry out their trade in accordance with both the relevant legislation and the Council's Hackney Carriage and Private Hire Licensing Policy. All enforcement action is carried out in compliance with the Housing and Public Protection Services Enforcement Policy, which is available on the Council's website.
- I1.2 Primarily, all enforcement action will be based upon the seriousness of the breach and the possible consequences arising from it. Enforcement action will not normally, therefore, constitute a punitive response to minor technical contraventions of legislation. Repeated minor technical contraventions, however, will be subject to appropriate action.
- I1.3 Specific advice on the issue of licences and enforcement action is contained elsewhere in the Council's Hackney Carriage and Private Hire Licensing Policy, which sets out the general principles to be followed in taking enforcement decisions.
- I1.4 Authorised officers, when making enforcement decisions, will adhere to the requirements and guidance contained within this policy. Any departure from the policy must be capable of justification, following careful consideration in exceptional circumstances, and authorised by the Head of Housing and Public Protection Services.
- I1.5 Authorised Officers must be fully conversant with the requirements of the Policy and appropriately trained as necessary.
- I1.6 Officers will be authorised by the Head of Housing and Public Protection Services to take enforcement actions relevant and appropriate to their status. All enforcement action will be undertaken by an Authorised Officer of appropriate status.

## **I2 Enforcement Options**

- I2.1 The Council consider consistency of approach in all enforcement action relating to hackney carriage and private hire licensing to be essential. To achieve and maintain consistency, it is vital that the requirements of this Policy are always considered and read in conjunction with the Housing and Public Protection Services Enforcement Policy.
- I2.2 Enforcement action must always be consistent, proportionate and reasonable whilst ensuring that the public receive adequate protection. Determination of enforcement action may consider, but will not be limited to, the following:
- (i) seriousness of any offence(s);
  - (ii) driver's or operator's past history;
  - (iii) consequence of non-compliance;
  - (iv) likely effectiveness of the various enforcement options;
  - (v) risk to the public.
- I2.3 Having considered all relevant information and evidence, the choices for enforcement action are:

### 12.3.1 Driver, Vehicle, or Operator Licence Applications

- (i) grant licence subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements
- (ii) refuse to grant or renew a licence.

### 12.3.2 Enforcement Action

- (i) take no action;
- (ii) take informal action (verbal warnings, written warnings, or penalty points);
- (iii) use statutory notices, (s68 stop notices, etc.);
- (iv) suspend a licence;
- (v) revoke a licence;
- (vi) issue formal cautions;
- (vii) prosecute;
- (viii) a combination of any of the above.

### 12.3.3 Alternative to Enforcement Action for First Time Smoking Offences

To support the initiatives of Hertfordshire Primary Care Trust and Hertfordshire Trading Standards, as well as offering health benefits to offenders, first time smoking offenders may be offered an alternative to formal sanctions. Instead of offering penalty points or a fixed penalty notices, first time offenders could be given a fixed period of time, at the Council's discretion, to attend an official 'stop smoking' course.

### 12.3.4 Alternative to Enforcement Action when there are concerns in respect of Driving Standards

Where concerns are raised for the first time in respect of a licensed driver's standard of driving, the driver may be required to pass a DSA test (see section 3.4) within a prescribed period of time. Failure to obtain a DSA test pass within the prescribed period of time will result in the suspension of the driver until such time as the DSA test pass is obtained. In exceptional circumstances, a driver may be suspended immediately until such time as a DSA test pass is obtained.

12.4 This policy document provides detailed guidance applicable to the various options for enforcement action.

## 13 Informal Action

13.1 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters in accordance with the Housing and Environmental Health Enforcement Policy.

13.2 Such informal enforcement action may be appropriate in, but not limited to, any of the following circumstances:

- (i) the act or omission is not serious enough to warrant more formal action;
- (ii) it can be reasonably expected that informal action will achieve future compliance;

- (iii) confidence in the operator's management is high;
- (iv) the consequences of non-compliance will not pose a significant risk to the safety of the public.

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.

#### **I4 Appearance before the Head of Housing and Public Protection Services**

- 14.1 An offending individual or company may be required to attend a meeting with the Head of Housing and Public Protection Services to answer allegations of breaches of relevant legislation, byelaws or requirements of this Policy.
- 14.2 The criteria for bringing applicants for licences before the Head of Housing and Public Protection Services is detailed in this Policy.
- 14.3 Current licence holders who report convictions or breach relevant legislation during the period of their licence may be required to attend a meeting with the Head of Housing and Public Protection Services. The criteria for such action is also detailed in **Appendix J** of this Policy.
- 14.4 The Head of Housing and Public Protection Services may decide to take one or more of the following actions:
  - (i) no action;
  - (ii) a written warning;
  - (iii) require the production of driving licences or other specified documentation at the Council Offices;
  - (iv) suspend a licence;
  - (v) revoke a licence;
  - (vi) authorise prosecution action;
  - (vii) other appropriate action as deemed necessary.

#### **I5 Section 68 Notices (Stop Notices)**

- 15.1 An Authorised Officer of the Council, or a Police Officer, may serve notice in writing for a hackney carriage or private hire vehicle, or the taxi-meter affixed to such vehicle, to be examined at the Council's appointed garage at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taxi-meter.
- 15.2 An Authorised Officer of the Council or a Police Officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the hackney carriage or private hire vehicle.
- 15.3 This action will only be taken when the Officer has reasonable grounds to suspect that the condition of the vehicle or taxi-meter does not meet the requirements of this Policy or any appropriate road traffic legislation.
- 15.4 The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been

satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given. Until such time as written confirmation has been received, the suspension notification will remain active. It is an offence to drive a suspended vehicle for the purposes of undertaking the business of a hackney carriage or private hire vehicle.

- 15.5 If the Authorised Officer of the Council or the Police Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from date of issue, the vehicle licence shall be deemed to be revoked.

## **16 Appeals**

- 16.1 Appeals against decisions of the Head of Housing and Public Protection Services may be made to the Magistrates' Court.
- 16.2 Any notification of enforcement actions will include written information on how to appeal. This will explain how, where and within what period an appeal may be brought and on what grounds. The notification will also confirm whether or not the enforcement action is suspended pending the outcome of the appeal.

## **17 Prosecution**

- 17.1 The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Generally, prosecution will be restricted to those circumstances where the law is blatantly disregarded, requirements of the Council are not complied with and / or there is serious risk to the public.
- 17.2 The circumstances which may warrant prosecution may include, but will not be restricted to, one or more of the following:
- (i) blatant disregard for legislation or this Policy, particularly where the economic benefits of breaking the law are substantial and provide significant advantage over those licence holders who are law-abiding;
  - (ii) when there appears to have been blatant and / or reckless disregard for the safety of passengers or other road users;
  - (iii) where there have been repeated breaches of legislation or requirements of this Policy;
  - (iv) where a particular type of offence is prevalent;
  - (v) where a particular contravention has caused serious public concern.
- 17.3 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered to enable a consistent, proportionate and reasonable decision to be reached.
- 17.4 In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, it must be established that it is in the public's interest to prosecute. The Code for Crown Prosecutors (January 1992), issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria.

- 17.5 A decision on whether to prosecute may consider, but not be limited to, the following:
- (i) the seriousness of the alleged offence;
  - (ii) the risk or harm to the public;
  - (iii) identifiable victims;
  - (iv) failure to comply with a statutory notice;
  - (v) disregard of safety for financial reward;
  - (vi) the previous history of the party concerned;
  - (vii) repeated offences leading to a history of similar offences;
  - (viii) failure to respond positively to previous enforcement action;
  - (ix) the ability and willingness of any important witnesses to cooperate;
  - (x) the willingness of the party to prevent a recurrence of the problem;
  - (xi) the probable public benefit of a prosecution and the importance of the case, for example, establishing legal precedent;
  - (xii) whether other action, such as issuing a simple caution in accordance with the Home Office Circular 30/2005, would be more appropriate or effective.
- 18 Simple Cautions**
- 18.1 A caution may be used as an alternative to a prosecution in certain circumstances.
- 18.2 The purposes of a caution are to:
- (i) deal quickly and simply with less serious offences;
  - (ii) divert less serious offences away from the Courts;
  - (iii) reduce the chances of repeat offences.
- 18.3 To safeguard the alleged offender's interests, the following conditions should be fulfilled before a caution is administered:
- (i) there must be evidence of the alleged offender's guilt, sufficient to give a realistic prospect of conviction;
  - (ii) the alleged offender must admit the offence;
  - (iii) the alleged offender must understand the significance of a simple caution and give informed consent to being cautioned.
- 18.4 If there is insufficient evidence to consider taking a prosecution then, by implication, the criteria for the use of a caution is not satisfied. Furthermore, a caution should not be used where the alleged offender does not make a clear and reliable admission of the offence. (It should be noted that there is no legal obligation for any person to accept the offer of a caution and no pressure should be applied to the person to do so).
- 18.5 Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. Whilst this will probably mean prosecution, this is not necessarily inevitable. The Head of Housing and Public Protection Services will consider the most appropriate enforcement action on the individual merits of the case.

**I9 Transparency**

- 19.1 Following the receipt of a notification of a conviction, or an adverse vehicle inspection, the licence holder will be informed of the action intended to be taken as soon as reasonably practicable.
- 19.2 Following the completion of an investigation into a complaint, or any enforcement activity, the licence holder will be informed of the action intended to be taken.
- 19.3 Any written documentation issued will-
- (i) contain all the information necessary to understand the offence and, where appropriate, what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
  - (ii) indicate the legislation or section of this Policy contravened and, where appropriate, measures which will enable compliance. Where appropriate, it will also indicate alternative means of achieving the same effect; and
  - (iii) clearly indicate any recommendations of good practice under an appropriate heading to differentiate them from legal requirements.
- 19.4 The clear distinction in all enforcement action between legal requirements and good practice recommendations, even if only given as verbal advice, is of considerable importance.

DRAFT (referred to LAC after consultation with stakeholders)



## APPENDIX J

### PENALTY POINTS SYSTEM

The Penalty Points Scheme will operate as follows:

- J1 The Council's Housing and Public Protection Services Enforcement Policy will be fully considered by the enforcing Officer when determining the manner in which any breach of legislation or the requirements of this Policy are dealt with. Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this appendix. If this appendix allows a range of points for the particular incident, the enforcing Officer will determine the appropriate number of points proportionate to the offence.
- J2 Before penalty points are issued, there must be sufficient evidence to prove, on the balance of probabilities, the offence or breach of licensing requirements. The issuing of penalty points is not a formal sanction in its own right, it is merely an open and transparent method of how a driver will be assessed in terms of the 'fit and proper person' test. The points system is predominately an internal management tool for ensuring that drivers who repeatedly contravene regulations and/or this Policy are assessed by the Head of Housing and Public Protection Services. At the meeting with the Head of Service, the driver's penalty offences will be re-considered in light of any mitigating circumstances the driver wishes to be considered.
- J3 A maximum of twelve penalty points will be issued on any one occasion. This means that if on any occasion when it is proposed to impose penalty points, a licence holder has committed more than one offence or breach of licence conditions, no more than twelve points will be imposed.
- J4 Points issued to either a proprietor or driver will be confirmed in writing within ten working days from the discovery of the contravention or the conclusion of an investigation into a complaint.
- J5 When issued, the penalty points will remain "live" for a period of two years from the date they are imposed so that only points accumulated in a rolling twenty four months period will be taken into account.

If a driver, proprietor or operator accumulates twelve or more points within a period of two years from the date they are imposed, he will be required to attend a disciplinary meeting with the Head of Housing and Public Protection Services, where the appropriate action to be taken in accordance with this Policy.

- J6 Where a driver is brought before the Head of Housing and Public Protection Services, the options available to him will include suspension or revocation of the driver's licence, where appropriate. If the Head of Housing and Public Protection Services does not feel that the matter warrants suspension or revocation of the licence, he may extend the period for which the points are to remain "live" or issue a written warning to the driver as to his future conduct.
- J7 Periods of suspension of a licence will be dependant on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.
- More than one accumulation of penalty points in excess of the twelve point threshold in any three year period will normally result in the Head of Housing and Public Protection Services revoking a licence where he believes the person not to be a 'fit and proper person' as defined by this Policy.
- J8 Once the matter has been dealt with, the points will be removed if a suspension or revocation is imposed. If the "live" period is extended or a written warning given, however, the points will remain "live" for the normal two-year period.
- J9 A driver will retain the right to be represented at any meeting with the Head of Housing and Public Protection Services, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
- J10 Even though penalty points have been issued by an Authorised Officer of the Council, if it is subsequently found that the driver has previously been issued with penalty points, or has been formally cautioned, for similar offences, the Council reserve the right to cancel the penalty points and deal with the matter in accordance with the Housing and Environmental Health Enforcement Policy.
- J11 The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this Policy.
- J12 There is no right of appeal against the award of penalty points by an Authorised Officer of the Council as this is not a formal sanction in its own right. As stated in paragraph J2 above, at a formal disciplinary meeting with the Head of Service, the driver's penalty offences will be considered in light of any mitigating circumstances the driver wishes to offer.

#### **PENALTY POINTS RELATING TO OFFENCES IN RESPECT OF LEGISLATION**

<b>Town Police Clauses Act 1847</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>

40	Giving false information on a hackney carriage licence application	3-10
44	Failure to notify change of address of a hackney carriage licence	2
45	Plying for hire without a hackney carriage licence	12
47	Driving a hackney carriage without a hackney carriage driver's licence	12
47	Lending or parting with a hackney carriage driver's licence	4
47	Proprietor employing an unlicensed hackney carriage driver	8
48	Failure of a proprietor to hold a hackney carriage driver's licence	6
48	Failure of a proprietor to produce a hackney carriage driver's licence	3
52	Failure to display a hackney carriage plate	4
53	Refusal to take a fare without a reasonable excuse	6-12
54	Charging more than the agreed fare	6-12
55	Obtaining more than the legal fare (including failure to refund)	6-12
56	Travelling less than the lawful distance for an agreed fare	6-12
57	Failure to wait after a deposit to wait has been paid	6-12
58	Charging more than the legal fare	6-12
59	Carrying persons other than the hirer without the hirer's consent	8
60	Driving a hackney carriage without the proprietor's consent	6-12
60	Allowing a person to drive a hackney carriage without the proprietor's consent	4
62	Driver leaving a hackney carriage unattended	2
64	Hackney carriage driver obstructing other hackney carriages	3

#### PENALTY POINTS RELATING TO OFFENCES IN RESPECT OF LEGISLATION

<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>
46(1)(a)	Using an unlicensed private hire vehicle	12
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	6-12
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	12
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	6-12
48(6)	Failure to display a private hire vehicle plate	4
49	Failure to notify the transfer of a vehicle licence	3
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request	6-12
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3
50(3)	Failure to report an accident to the Council within seventy two hours	6
50(4)	Failure to produce the vehicle licence and insurance upon request	4
53(3)	Failure to produce a driver's licence upon request	4
54(2)	Failure to wear a private hire driver's badge	4
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6-12
56(3)	Failure of a private hire operator to keep records of all private hire vehicles, or failure to produce them on request of an Authorised	6

	Officer of the Council or a Police Officer	
56(4)	Failure of a private hire operator to produce his licence on request	4
57	Making a false statement or withholding information to obtain a hackney carriage or private hire driver's licence	3-10
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence	6
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew	6
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	6
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement	6-12
67	Charging more than the meter fare when hackney carriage is used as a private hire vehicle	6-12
69	Unnecessarily prolonging a journey	6-12
71	Interfering with a taxi-meter with intent to mislead	12
73(1)(a)	Obstruction of an Authorised Officer of the Council or a Police Officer	6-12
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Police Officer	6-12
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Police Officer	6

### Disability Discrimination Act 1995

Section	Offence	Points
37	Refusal to carry a guide, hearing, or other assistance dog in a hackney carriage without a valid certificate of exemption	6-12
37	Charging an additional cost for the carrying of an assistance dog in a hackney carriage	6-12
37a	Refusal to carry a guide, hearing, or other assistance dog in a private hire vehicle without a valid certificate of exemption	6-12
37a	Charging an additional cost for the carrying of an assistance dog in a private hire vehicle	6-12

### Hackney Carriage and Private Hire Licensing Policy

Section or Appendix	Breach of policy requirement	Points
	Failure to adhere to the Dress Code for Licensed Drivers	2
	Failure to wear a driver's badge	4
	Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below	2-6
	Failure to ensure the safety of passengers	4
	Concealing or defacing a vehicle Licence Plate	4
	Failure to attend on time for a pre-arranged booking without reasonable cause	3
	Conveying a greater number of passengers than permitted	6
	Failure to give reasonable assistance with passenger's luggage	3
	Private hire vehicle soliciting for hire or accepting a fare that is not pre-booked	6-12
	Operating a vehicle that is not clean and tidy	2

Driving without the consent of the proprietor	5
Drinking or eating in the vehicle whilst carrying passengers	3
Smoking in a licensed vehicle at any time	4
Cause excessive noise from any radio or sound-reproducing equipment	2
Operating the horn as a means of signalling that a vehicle has arrived	3
Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6
Performing a U-turn in Bancroft, Hitchin between the hours of 07:00hrs and 20:00hrs	4
Using a non-hands free mobile telephone whilst driving	4
Failure to advise of a relevant medical condition	6-12
Failure to provide a receipt for a fare when requested	2
Failure to operate the meter from the commencement of the journey and/or charging more than the fixed charge for hire of hackney carriages	6-12
Failure to notify the Council of any amendment to the details of a licence within fourteen days	3
Failure to produce a licence upon request	4
Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment	3
Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	2
Failure to surrender a driver's licence, badge or plate upon request	6
Failure of a licence holder to disclose convictions within seven days of conviction	6-12
Failure to take found property to the Police within seven days of finding	3
Failure to report an accident within seventy two hours	3
Carrying an animal other than one belonging to the passenger(s)	2
Carrying an animal not safely restrained	3
Failure to comply with the requirements for the safe carrying of a wheelchair	6
Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein	2-6
Operating a vehicle which is not maintained in a sound and roadworthy condition	6-12
Failure to carry an approved fire extinguisher	3
Failure to carry an approved first aid kit	3
Operating a vehicle which is not maintained in a clean and/or safe condition internally or externally	3
Modifying a vehicle without the consent of the Council	3
Failure to display or maintain external Licence Plates as issued by the Council	4
Hackney carriage vehicle signage not in accordance with the Council's requirements	4
Affixing or displaying a roof sign on a private hire vehicle	4
Displaying a sign or advertisement on a licensed vehicle contrary to the Policy requirements or has not been approved by the Council	4
Carrying radio equipment or similar devices not in accordance with Council requirements	2

	Taxi-meter does not conform to the Council's requirements	6
	Trailer does not comply with the Council's requirements	3
	Operating or driving a vehicle which does not comply with the Council's Policy requirements	4-12
	Driving with no insurance or inadequate insurance for the vehicle	12
	Allowing a vehicle to be used for hire by a person who does not hold a current driver's licence	8
	Operating a vehicle which does not comply with the Council's requirements in relation to tinted windows	4
	Permitting the vehicle to be used for any illegal or immoral purposes	6-12
	Failure of a private hire operator to provide a prompt, efficient and reliable service	3
	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3
	Failure of a private hire operator to ensure that vehicles attend bookings punctually	4
	Failure of a private hire operator to keep the operating premises in accordance with the Council's requirements	3
	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	6
	Failure of a private hire operator to keep and display public liability insurance for the operating premises if the public are allowed access	4
	Failure of a private hire operator to ensure that every driver employed by him has a private hire licence and badge	4
	Failure of a private hire operator to keep a copy of the Council's Hackney Carriage and Private Hire Licensing Policy to be made available for inspection by passengers upon request	4
	Any other contravention of the Policy not covered above	2-12

## APPENDIX K

### VEHICLE LICENCE ZONING

As stated in Section 2.1.4 of this Policy, The Council issue hackney carriage vehicle licences for one of five zones within North Hertfordshire. Licensed vehicles must only ply for hire within the zone in which they are licensed.

The following lists allocate the rural villages to each of the five zones, although these lists are not exhaustive. This appendix may be updated by the issue of an addendum to this Policy

**BALDOCK:** Ashwell, Bygrave, Hinxworth, Redhill, Rushden, Sandon, Wallington

**HITCHIN:** Bendish, Breachwood Green, Cockernhoe, Codicote, Gosmore, Great Ashby, Great Wymondley, Hexton, Holwell, Ickleford, Kimpton, Kings Walden, Ley Green, Lilley, Little Wymondley, Offley, Pirton, Preston, St Ippolyts, St Paul's Walden, Tea Green, Whitwell

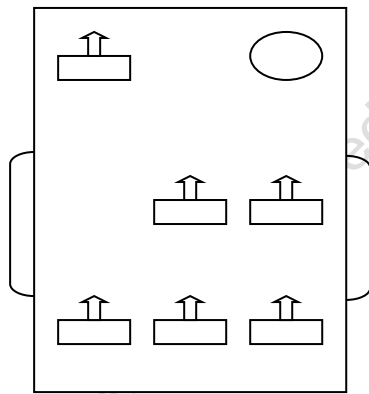
**KNEBWORTH:** None

**LETCHWORTH:** Graveley, Halls Green, Weston, Willian

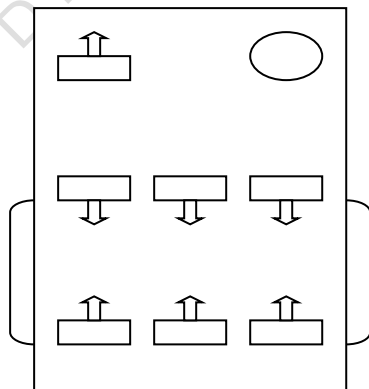
**ROYSTON:** Barley, Barkway, Kelshall, Nuthampstead, Reed, Therfield

**APPENDIX L**

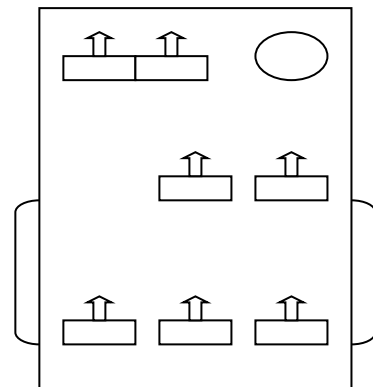
**SEATING CONFIGURATIONS IN MULTI-PASSENGER VEHICLES**



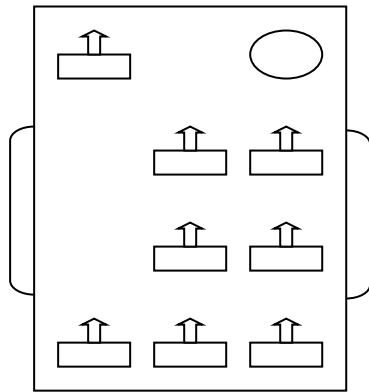
Six-seater vehicle



Seven-seater vehicle







Eight-seater vehicle



Driver



Passenger Seat



Passenger facing



Door

DRAFT (referred to LAC after consultation amendments)