



## HERTSMERE BOROUGH COUNCIL

# Hackney Carriage and Private Hire Licensing Policy 2022– 2027

This policy was adopted by Hertsmere Borough Council's Full Council  
On 26 January 2022 and shall come into force on 1 March 2022.  
This Policy shall be reviewed by the Council no later than 1 March 2027.

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## 1 INTRODUCTION

- 1.1 The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 provides a regulatory framework for the licensing of hackney carriage and private hire vehicles, their drivers and, in respect to private hire vehicles, their operators. Hertsmere Borough Council (“the Council”) is responsible for the licensing and regulating the use of these vehicles, their drivers and operators in its district.
- 1.2 The adoption of a Hackney Carriage and Private Hire Licensing Policy is not a statutory requirement but it is recommended by the Department for Transport (“DFT”) as good practice for local authorities to publish its Policy and its procedures. In adopting this Policy, the Council has had regard to the DFT statutory guidance.
- 1.3 In line with the DFT statutory guidance this Policy shall be reviewed no later than 5 years from the date of adoption, an interim review shall occur no later than 3 years from the date of adoption and a performance review shall be documented and published by the Licensing team each year.
- 1.4 This Policy does not override the legal requirements embodied in any primary or secondary legislation in force at the time of adoption or as may be enacted after the adoption of this Policy. Where there are any subsequent legislative changes, or the interpretation of that legislation by the Courts, occur that conflict with this Policy, the conflicting elements of this Policy shall not apply and will be amended at the earliest opportunity.
- 1.5 This Policy operates within the primary and secondary legislation set by Parliament and provides the Council’s licensing committee, its sub-committees and Council officers a framework to aid the decisions made. The Policy also provides to licence holders, applicants and the public a transparent rationale behind the Council’s requirements and the matters that will be considered when making a decision.
- 1.6 The Council recognises that this Policy cannot be absolute and will give reasonable and appropriate consideration to departing from its Policy following a request to do so, whether made before the Licensing Committee, a Sub-Committee or Officers of the Council, as is appropriate in the circumstances of the case and in line with delegations set out in paragraph 8.6.9 of this Policy.
- 1.7 Notwithstanding the operation of this Policy and even where no request is made to the Council to depart from it, each decision made by the Council will be on the individual merits of the matter before it.

## 2. AIMS AND OBJECTIVES OF THE LICENCING POLICY

- 2.1 Licensing regimes exist where Parliament has identified a potential harm to members of the public that could occur should an activity be carried out without any form of regulation. The harm that could occur through the use of unregulated private hire or public hire vehicles transporting members of the public without supervision is clear.
- 2.2 Given the purpose of the relevant legislation, Hertsmere Borough Council will administer and enforce the hackney carriage and private hire regime with the overriding objective of promoting **Public safety and Public Safeguarding** with the

intent to ensure that all members of the public are protected from harm caused by the use of a licensed vehicle or the behaviour of its driver or its operator.

**2.3** The Council's immediate licensing responsibility will therefore be used to ensure that licensed vehicles in the district are safe, properly insured and are driven and operated by fit and proper people. This includes:

- a) Safeguarding children and vulnerable persons;
- b) Ensuring vehicles are safe and do not pose a harm to the public;
- c) Ensuring that drivers and operators do not pose a harm to the public;
- d) Preventing and reducing crime and disorder;

**2.4** In addition to the overriding objective the Council shall endeavour to exercise its responsibilities to achieve the following aims:

- a) Protecting the health of the public and drivers;
- b) Encouraging flexible and accessible transport to all members of the public;
- c) Encouraging environmentally friendly and sustainable business practices;
- d) Encouraging the service provided in the Borough by licensed vehicles, drivers and operators to be of an exemplarily standard.

**2.5** The predominant Acts of Parliament creating the current Licensing system are the Town Police Clauses Act 1847 ("the 1847 Act") and Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act"), referred in this Policy as the Primary Licensing Legislation. However, the Council required to comply with a range of legislative requirements when carrying out its public duties and formulating this Policy - such as the Crime and Disorder Act 1998, Equality Act 2010, the Human Rights Act 1998.

**2.6** Additionally, other Acts of Parliament impose regulatory requirements on licence holders or affect how the Council make decisions or conducts itself. These include the Town Police Clauses Act 1889; Equality Act 2010; Transport Act 1985, Transport Act 2000, Police and Criminal Evidence Act 1984, Road Traffic Acts, Motor Vehicle (construction and use regulations) 1999, Health Act 2006 and the Immigration Act 2016.

**2.7** The above list of legislation is not exhaustive and all are subject to change. This Policy is not, and cannot be, a thorough statement of the law. It is a statement of what the Council believes is appropriate to satisfy the applicable legislative requirements and how decisions will be made. Applicants, licence holders and members of the public should not rely on this document as legal advice. Advice relevant to individual circumstances can be sought from the Council's Licensing team as to the Council's interpretation of the legislation and its Policy, and individuals are free to obtain their own legal advice at any time.

### **3.0 The Principles of the Licensing Regime**

**3.1** Only vehicles that carry eight passengers or less and are provided with the services of a driver fall within the licensing regime. The primary licensing legislation creates three types of licence:

- i). Drivers (Hackney Carriage and Private Hire).
- ii). Vehicles (Hackney Carriage and Private Hire).

iii). Operators (Private Hire only).

### **3.2 The Difference between Hackney Carriages and Private Hire Vehicles**

- i). Hackney Carriages can be hailed (“flagged down”) in a public street or hired from a taxi rank. The contract for services is made between the customer and the driver. The fares charged are set by the Council.
- ii). Private Hire vehicles must be pre-booked in advance through a licensed Private Hire Operator and the contract for service is between the customer and the operator. The operator sets the fees to be charged.

3.3 A journey not carried out in accordance with the correct licences is unlawful and will invalidate the insurance held by the driver, vehicle owner and operator and could have serious consequences should an accident occur. Anyone conveyed in a Private Hire vehicle which has not been pre-booked will not be protected by the driver’s insurance and there will be no record of the journey. This poses a severe risk to the safety of members of the public.

3.4 In enacting the primary licensing legislation Parliament has shown a clear intention that private hire vehicles are to be used just for private hire purposes and only hackney carriages that are subject to additional bye-laws are permitted to ply for hire.

3.5 The Council will bear this distinction in mind when setting this Policy as some requirements may be necessary for one type of hire vehicle and activity and not the other. A customer who makes a contract for hire with a private hire operator may have time to “shop around” for the best price or specify any particular term of hire that they want the operator to abide by. On the other hand, a contract for hire made with a driver of a hackney carriage vehicle is more likely to be in a situation where the bargaining power of the customer, and availability of other transport, is limited. There is greater need for the Council to be involved in the regulation of customer service and fees in respect to hackney carriage operations than those related to private hire.

### **4.1 POLICY ON LICENSING INDIVIDUALS TO DRIVE LICENSED VEHICLES**

4.1.1 Licences to drive either a hackney carriage or a private hire vehicle are granted under the 1976 Act which requires the Council to be satisfied that an individual is “fit and proper”.

4.1.2 There is not a statutory definition of “fit and proper” in the 1976 Act nor a fixed process to apply for a licence. It is therefore necessary for the Council to consider what constitutes a “fit and proper” person in relation to the role of a licensed driver and what factors it will consider to assess whether an individual meets that standard. Appendix A shall set out the relevant procedure to be followed by an applicant for a licence that incorporates this Policy.

4.1.3 Passengers put their lives in the hands of a licensed driver and rightfully expect that any individual licensed by the Council is a safe and responsible driver with a mechanically sound and well-maintained vehicle.

- 4.1.4 Drivers of licensed vehicles are in a position of responsibility and trust and may often be alone with their passengers. It is imperative that the Council is satisfied that a licensed individual will not abuse this position of trust and responsibility.
- 4.1.5 The Council therefore considers that the factors relevant as to whether a person is fit and proper to be a licensed driver are an individuals:
- a. Character and conduct
  - b. Driving standard
  - c. Health and fitness
  - d. Knowledge and Understanding of the role of a licensed driver.
- 4.1.6 The Council will seek to establish sufficient evidence in which to form an overall view of an individual to determine if they are fit and proper. The application process adopted by the Council will be designed to provide an applicant with the opportunity to satisfy the Council that they are “fit and proper”.

## 4.2 **Character and conduct**

- 4.2.1 The matters that the Council shall consider in relation to establishing if an individual’s character and conduct are suitable to licensed will be as follows:
- a. Criminal record;
  - b. Intelligence held or known by other bodies and statutory agencies;
  - c. The conduct of the applicant in making the application;
  - d. Any previous licensing history;
  - e. Any other behaviour or conduct known to the Council that may indicate that an individual is not suitable to work with members of the public in a licensed vehicle.
- 4.2.2 **Hertsmere Borough Council Policy on Criminal Records**
- 4.2.3 The Rehabilitation of Offenders Act 1974 does not apply to the profession of a hackney carriage or private hire driver. All cautions and convictions, whether spent or unspent, are considered relevant by the Council.
- 4.2.4 Being convicted of an offence is an indication as to an individual’s character, choices and values but does not automatically preclude a person from satisfying the Council that they are fit and proper. The Council accepts the underlying principle that those with convictions can rehabilitate. However, the more time that has elapsed following a conviction without the occurrence of any further matter calling into question a person’s character, the stronger the indication is that an individual has rehabilitated.
- 4.2.5 Given the overriding public safety objective the duration that should elapse following a conviction without further offence should be commensurate to the seriousness of the offence. Some offences are so serious that the Council does not consider it reasonable to risk the safety of the public by ever granting a licence.
- 4.2.6 **Evidence of criminal record - Disclosure & Barring Service Disclosures (DBS)**
- 4.2.7 An applicant must provide an Enhanced DBS Certificate issued specifically for Private Hire / Hackney Carriage use as part of the application process. Where an applicant has previously registered an enhanced DBS certificate (issued for private hire/hackney carriage use) with the DBS update service the applicant may not need

to apply for a new DBS certificate. The applicant will need to ensure that the Council has a copy of the certificate registered with the update service and the relevant details to check that certificate online.

4.2.8 Applicants should provide the original certificate to the Council upon first application. A copy of this certificate shall be kept on file and retained whilst an individual is licensed, and then in line with the Councils retention Policy for a period after any licence has expired.

4.2.9 Applicants and licence holders are strongly encouraged to retain the original DBS certificate should it be required again by the Council at a later stage.

4.2.10 All licensed drivers will be conditioned to register for the DBS update service. The effect of this will mean that the renewal process for their driver and vehicle licences (and if relevant operator's licence) can be processed more efficiently. The cost of registering on the update service is also cheaper than applying for a new DBS each year.

4.2.11 An additional DBS check may be required at any time if the Licensing Authority has a reasonable belief that the licence holder may have a criminal conviction that has not been disclosed or has failed to maintain a subscription to the update service. A failure or refusal to provide a further DBS certificate will result in enforcement action.

#### **4.2.12 Applicants with Periods of Residency Outside the UK**

4.2.13 The DBS can only check an individual's record in respect to criminal offences committed in the UK. Any applicant who has, since the Age of 18 resided outside of the UK for any period within the 3 years prior to the date of their application, will be required to obtain and produce to the Council's satisfaction a 'Certificate of Good Conduct' or similar from the relevant country or countries in which they have resided. This will identify if the applicant has been convicted of any offences overseas.

4.2.14 The applicant is responsible for obtaining the required document in line with specific Home Office guidance procedure for the relevant country. The 'Certificate of Good Conduct' will ordinarily be an extract from a competent judicial or administrative authority for the relevant country ordinarily stated in the Home Office guidance. A translation will be required if it is not provided in English, the expense of which must be met by the applicant.

4.2.15 An applicant who has been granted asylum/refugee status will not be required to produce a Certificate of Good Conduct from the country they are claiming asylum from. Where an applicant is awaiting a decision to be granted asylum/refugee status they may also be exempt from the requirement to provide a certificate or may have their application put on hold depending the outcome of that decision.

4.2.16 The applicant will be responsible for providing clear and legible evidence of their asylum or refugee status, such as their Certificate of Registration or a letter issued by the Border and Immigration Agency, an executive agency of the Home Office. The applicant will still need to obtain a 'Certificate of Good Conduct' from any other country they have resided in within the period of 3 years prior to the date of application.



#### **4.2.17 Non-Criminal Conduct and Other information**

4.2.18 The Council is not limited to only considering information that has resulted in a conviction and may consider information provided by other bodies, such as, the Police, Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies about an individual.

4.2.19 The Council will also consider the conduct of the applicant during the application process. The Council expects applicants to act with honesty and integrity during the application process and any failure to do so is likely to raise concerns about an individual.

4.2.20 Applicants will also be requested to confirm if they have held a licence with any other authority and if any licence has been suspended or revoked. The Council shall ask any other authority that has licensed the individual to provide details about that applicant's conduct. The Council will make use of the NR3 database to check if an applicant has been licensed elsewhere and the failure to disclose any information will be treated as a failure to act with honesty and integrity.

4.2.21 Sufficient understanding and speaking of English is necessary to form the role of a licensed driver. The failure to provide true and accurate information caused by an applicant's inability to read and understand the Council's process is likely to result in the consideration that they are not fit and proper.

#### **4.2.22 Assessing Character and Conduct**

4.2.23 When considering any convictions, cautions or other conduct recorded against an applicant, the Council will apply the Policy found in Appendix B.

### **4.3 Driving ability**

4.3.1 In order to assess an individual's driving ability, the Council will consider the following:

- a. Driving experience (the period of holding a DVLA driving licence)
- b. The number of driving licence endorsements/penalty points
- c. Standard of safe driving / driving ability

#### **4.3.2 Driving experience**

4.3.3 The 1976 Act prevents an application being granted to any person who has not held a full driving licence for 12 months. However, a licence will not normally be granted by the Council to anyone who has not held a driving licence for a period of at least 3 years prior to the application. This is because there is evidence that inexperienced drivers are at an increased risk of being involved in an accident. The Council is open to an applicant presenting additional qualifications or other information to it and requesting consideration that the Council departs from this policy.

4.3.4 For instance, an applicant may be of an age at the time of application which is statistically at lesser risk of being involved in an accident (generally 25 years and above). Alternatively, the driver may have no criminal record, be able to evidence that they have no driving endorsements in the time period in which they have held a licence and have undertaken additional driving training or examination that is documented and can be produced in support of the application. To be acceptable additional training or examination must be at a significantly high level involving several hours of tutelage that will compensate for the lack of driving experience. For

this reason, “pass plus” is not acceptable. Acceptable courses are likely to be those that last for a number of days and are ran by agencies such as ROSPA or based on the Police driving handbook.

4.3.5 Applicants will need to provide a UK driving licence, issued under Section 97 of the Road Traffic Act 1988 (as amended), or a licence issued by any other country that is treated as equivalent to a UK licence. ‘Equivalent licences’ are those issued by a country that is a member of the European Union or European Economic Area, Gibraltar, Jersey, Guernsey, Isle of Man or any other nation ‘designated’ by the UK government. Those licences considered ‘equivalent’ are subject to legislative change and the Council will always refer to the latest government guidance.

4.3.6 Individuals with a driving licence issued by a country that is not considered as being ‘equivalent’ to the UK licence will not be granted a licence by the Council. This is because such individuals must take a theory and practical test to drive in the UK after a period of 12 months. This indicates that the government does not believe that the driving standard equates to the UK standard.

4.3.7 The above paragraph also applies to any individual who holds an EU driving licence but obtained it by exchanging a previous licence held, which was granted as a result of a driving test that was passed in a country that is not an EU or designated country.

#### 4.3.8 **Driving Endorsements**

4.3.9 Applicants must obtain a Shared Driving Licence code from the relevant [www.Gov.uk](http://www.Gov.uk) site and provide this to the Council. This will allow the Council to check that applicants driving entitlement and any endorsements they may have. Where an applicant is unable to use the service to provide the details needed by the Council to check their licence, they may be provided with an alternative option that they will need to pay for.

4.3.10 Driving endorsements are criminal offences and the Council will take into consideration any penalty points issued as part of its consideration of an applicant’s driving standard as well as the applicant’s character and conduct. Both spent and unspent driving endorsements will be considered in line with Appendix B.

4.3.11 Regardless of the type of driving licence provided, it is imperative that the Council can check an applicant’s recorded driving history to identify any patterns of poor driving or conduct. If an applicant has not been in the UK for 3 years, they will be expected to provide evidence from any other country they have resided in for more than 6 months in that 3-year period.

4.3.12 The Council accepts that some overseas jurisdictions do not record driving offences in the same way as the DVLA in the UK. Driving offences abroad may be recorded as criminal convictions and a certificate of good conduct may suffice. However, the onus and responsibility rests with the applicant to ensure that their driving record is provided to the Council where available. If an applicant has less than 3 years driving history recorded in the UK and is unable to provide any evidence of their driving record from another country, they are likely only to have a licence granted by the Council if their UK record is free of any endorsements, covers at least 12 months and no offences are recorded on their certificate of good conduct or DBS.

4.3.13 The Council does not accept that licensed drivers are more likely to incur endorsements due to the amount of time they spend driving and that an allowance should be given for this. Driving offences are committed either through lapses of

judgement or attention or by disregarding the laws applicable to road users. Any lapse of judgment or attention, or disregard of the law, whether reckless or intentional by a driver, when driving a passenger, could result in injury or death. The Council therefore considers driving endorsements with the utmost seriousness.

#### **4.3.14 Driving assessment**

4.3.15 A practical driving assessment designed for hackney carriage and private hire drivers is necessary for all new applicants to pass. The test required is modelled on that previously provided by the DVSA and is provided by a qualified third-party organisation approved by the Council.

4.3.16 Those who drive a wheelchair accessible vehicle must also take an enhanced practical driving test which includes how to load, secure and unload a wheelchair safely.

4.3.17 There is no limit on the number of times that an applicant may take an assessment but driving assessor may report back to the Council any significant concerns about an applicant which may result in the Council refusing an application.

4.3.18 If an applicant has already passed a driving test, either due to being licensed by another authority or holding a previous licence with the Council, a new test will not normally be required provided that test was passed in the last 3 years or the applicant can show that they have continued to be a licensed driver with a licensing authority since the test was passed and have not been subject to any enforcement action related to their driving ability.

#### **4.4 Medical Health and Fitness**

4.4.1 In order to be satisfied that an individual is suitable to be licensed the individual must:

- a. Provide a medical certificate signed by their own GP or registered medical practitioner confirming that the individual meets the DVLA Group 2 Standards.
- b. Medical examinations must be provided to the Council within one calendar month of completion.

#### **4.5 Medical Examinations**

4.5.1 The health and medical fitness of a person can affect their ability to drive safely but this can be exacerbated where an individual's profession is to be driving a vehicle for the majority of their working hours. Licensed drivers are traditionally self-employed and their hours of work are not controlled by the Council.

4.5.2 The Council needs to be satisfied that an individual is medically fit and able to carry out the day-to-day duties of driving on UK roads for several hours a day. Drivers will have to work in a seated position for many hours continuously and maintain concentration in a variety of driving conditions. They are required to assist passengers, including those who are disabled or vulnerable, handle luggage and take reasonable steps to ensure the safety of passengers in the event of an accident or emergency.

4.5.3 Additionally the Council need to be satisfied that an individual does not suffer from any condition that will, or may deteriorate to, result in lapses of concentration or physical capability that may compromise an individual's driving.

- 4.5.4 The Council requires an applicant to be examined by their own General Practitioner to the Group 2 Medical Standards applied by the DVLA to the licensing of lorry and bus drivers. The applicant will be responsible for paying the fee for the examination to the GP surgery. Medical certificates must be provided by a licence holder at least every 5 years until they are aged 65. Certificates will be required at least every 2 years after the age of 65.
- 4.5.5 The Council will have discretion to request that applicants or licence holders provide further medical certificates at any time where it is considered reasonably necessary for the Council to ascertain the health and fitness of an individual, or where the medical information provided to the Council, or the applicants Doctor, indicates that more frequent checks may be necessary. Certain medical conditions may warrant an annual examination and/or the adherence to additional requirements or monitoring in order for a licence to be granted.
- 4.5.6 Where the Council believes it is necessary to require medical certificates to be provided by an applicant at more frequent durations the applicant will be informed of this before a licence is granted and allowed to make representation to the Council.
- 4.5.7 Licence holders will be conditioned to advise the Council of any deterioration in their health or the diagnosis of any medical condition that may affect their driving ability or wider role as a licensed driver. Following any such notification the Council shall review the matter and may require the applicant to provide further medical information and/or undertake a further group 2 medical examination. In circumstances where there is any concern that the driver may pose a danger to the public their licence shall be suspended until the Council is satisfied of their health.

#### **4.6 Knowledge**

- 4.6.1 In order to be satisfied that an applicant has sufficient knowledge an applicant must:
- a. Attend and successfully complete the Council's driver training day and
  - b. Pass the Council's knowledge test.
- 4.6.2 The training day shall be provided by a third party approved by the Council and cover the following:
- i. Literacy and numeracy;
  - ii. Child / adult safeguarding awareness;
  - iii. Disability awareness (including physical and sensory disability);
  - iv. Road Safety;
  - v. Basic vehicle maintenance;
  - vi. Customer care / awareness;
  - vii. Local knowledge
- 4.6.3 The content and nature of the training day may include additional matters due to changes to legislation or the nature of a licensed driver's role.
- 4.6.4 The applicant will also need to pass the Council's knowledge test to ensure that the learning set out in the knowledge day has been understood.
- 4.6.5 If an applicant fail's 3 successive knowledge tests they will be required to wait at least 6 months (from the date of the most recent failure) before being permitted to take further tests. This is because 3 failures indicate that an applicant has a significant gap in their knowledge and it would be wrong for the Council to continue

to take a fee from them. A break of 6 months will allow the applicant time to ensure that they obtain the relevant knowledge needed to pass the test.

- 4.6.6 The Council does not require a driver to obtain any professional qualification, for example a BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire, but encourages all drivers to do so. Where the Council is considering if an applicant or licensed driver is fit and proper it will take into consideration any additional professional qualification that they may hold related to the role of a taxi driver and give it appropriate weight.
- 4.6.7 The Council will not require an applicant to undertake a formal English qualification at this time. It is recognised that an applicant will need sufficient understanding of English language to successfully pass the knowledge test and complete the application process.
- 4.6.8 Licensing officers will deal with applicants on a day-to-day basis and if they identify concerns with an applicant's understanding of English that will impact their ability to carry out their duties this will be taken into account when determining if they are "fit and proper" to be licensed.
- 4.6.9 An applicant may be asked to satisfy the Council that they have a sufficient level of English by taking an additional test or examination. Any licensed driver who shows signs of not understanding English or being able to communicate in English may be required to take an additional test or examination to satisfy the Council that they remain suitable to be licensed.

#### **4.7 Right to Work**

- 4.7.1 The Immigration Act 2016 prevents driver and operator licences from being issued to people who are unable to provide evidence that they have the appropriate right to work entitlements under the Immigration Act 2016. It is the responsibility of an applicant to provide the relevant information and evidence. An applicant may use, or be requested to use, the Home Offices online feature enabling them to share their right to work status with the Council.
- 4.7.2 The Council shall also share information as is necessary with the Home Office to prevent offences being committed under the above Act.
- 4.7.3 Where an applicant can not establish the correct right to work entitlement an application will be refused. Where an applicant's right to work entitlement is time limited a licence shall not be granted beyond that time. If an applicants right to work entitlement is withdrawn by the Home Office or expires the licence shall be suspended or revoked.

#### **4.8 Tax**

- 4.8.1 The Council will check the registered tax status of individuals holding licences from 2022 and new applicants will be provided with the relevant information to understand their tax obligations and once licensed will be required to prove they are resisted to pay tax.
- 4.8.2 No licence shall be granted, or will be suspended or revoked, if an applicant cannot confirm that they have appropriately registered to pay tax.
- 4.8.3 The Council may make periodical checks to establish that an applicant is registered and paying tax.

## **4.9 Application Procedure**

4.9.1 The application procedure for applying for a licence to drive private hire or hackney carriage vehicles is set out in Appendix A. The procedures set out the practical requirements and steps to be taken by an applicant in order to give effect to this Policy. The Council will need to take appropriate steps to verify the identify of any individual.

## **4.10 Determination of whether an applicant is Fit and Proper**

4.10.1 Only once a full application is completed and all the required supporting documents provided can the Council determine if the applicant is “fit and proper” in line with the requirement set out in this Policy.

4.10.2 In some instances, applicants may enquire if a licence will or will not be granted before they submit the application. The Council can only determine the application once it has been made in full but may respond to such requests by referring to the guidelines of this policy. However, any such advice or guidance given, can not amount to an approval or refusal of an application.

4.10.3 The successful completion of the application process and the fulfilment of all Policy requirements does not guarantee the grant of a licence. When making its final decision the Council shall adopt the recommendation of the DfT Statutory guidance and apply the following test:

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

4.10.5 The Council will test the evidence before it to the civil standard, on the balance of probabilities, and if the Council has any doubt when applying the above test, a licence shall not be granted.

## **4.11 Remaining Fit and proper**

4.11.1 Under the 1976 Act the Council can revoke, suspend (or refuse to renew) a licence for any non-compliance with the Acts of 1847 and 1976 (including the conditions imposed), offences involving indecency, violence or dishonesty or “any other reasonable cause”.

4.11.2 The Council interprets “any other reasonable cause” as requiring the same test as to whether an individual is “fit and proper” as is applied at the time of considering a new application.

4.11.3 Licence holders must remain suitable in terms of character, conduct, driving ability, medical fitness and their understanding (compliance) with the provisions of the law, licence conditions and this Policy.

4.11.4 The strict measures adopted above are of no value if once a licence is granted the Council does not continue to regulate licence holders. For this reason, the Council takes seriously its regulatory responsibilities and will take appropriate enforcement action for any matters of non-compliance with the legislative requirements or licence conditions. Non-compliance with any of these measures will result in enforcement action.

4.11.5 Licence holders are expected to understand the laws, conditions and other regulations that apply to them in their chosen profession. This is their responsibility.

Whilst the Council encourages licence holders to ask for advice from the Council if they are unsure, the Council will not accept a lack of knowledge as reasonable to excuse an individual of any offences. How the Council carry out enforcement is explained at part 7 of this Policy.

#### **4.12 The Licensed Drivers Obligations**

4.12.1 Licensed driver must comply with the provisions of the 1847 Act and the 1976 Act.

4.12.2 Licensed private hire drivers are also expected to comply with all of the following:

- i. Private hire driver licence conditions;
- ii. Private Hire Vehicle licence conditions;
- iii. Code of conduct and dress code.

4.12.3 Hackney Carriage drivers are also expected to comply with the following:

- i. Hackney Carriage Byelaws;
- ii. Hackney Carriage Vehicle licence conditions;
- iii. Code of conduct and dress code.

4.12.4 Whilst conditions cannot be imposed on Hackney carriage driver licences the Council still expects hackney carriage drivers to comply with the private hire driver licence conditions set out in appendix F as a code of conduct. Whilst failing to comply with these conditions shall not give rise to any criminal offence, the Council shall still take into account any failure as indicative of an applicant not being fit and proper.

4.12.5 The Council expects those who drive either a private hire vehicle or hackney carriage to understand the different roles that hackney carriages and private hire vehicles play in the local transport provision. The Council does not limit hackney carriage numbers and there is no excuse for any vehicle to ply for hire in the Borough without the appropriate licence.

#### **4.13 DBS Update Service**

4.13.1 Licensed drivers will be conditioned to register their enhanced DBS certificate with the DBS update service and to permit the Council to check the information currently held by the DBS at any time.

4.13.2 Failure to register or to maintain a registration may result in either the suspension or revocation of a licence. Where a licence is not revoked, the licence holder will be expected to apply for a new enhanced DBS urgently.

4.13.3 Where the update service indicates a change to the information provided on a disclosure the individual will be expected to obtain a further enhanced DBS and their licence maybe suspended until this is done.

#### **4.14 Licensee Self- reporting**

4.14.1 All licence holders are obligated to tell the Council of a wide variety of matters within certain timescales, such as a change to their name, address or change to their health. These timescales may be fixed by legislation or licence condition and non-compliance can result in enforcement action.

4.14.2 Licence holders must notify the Council if they are:

- i. Arrested for any criminal offence;
- ii. Charged with a criminal offence;
- iii. Convicted of a criminal offence;
- iv. Cautioned for a criminal offence;
- v. Issued with a fixed penalty for any offence;

4.14.3 The Council's code of conduct is for any of the above occurrences to be notified to us within 48 Hours regardless of the offence. This is to give all licence holders a consistent timescale to work with, stresses the importance of their role and avoids licence holders having to determine if the offences fall within the paragraph below.

4.14.4 All Licence holders will be conditioned to report to the Council within 48 hours of any arrest and release, charge, conviction or caution of any sexual offence, motoring offence, violent offence or dishonesty offence. Appendix B categorises the type of offences under these headings. 48 hours is the required timeline advised by the DfT and intended to ensure that, in exceptional circumstances, individuals are not unfairly penalised by not self-reporting sooner than the 48-hour threshold. The Council does expect that a fit and proper person would notify the Council sooner than 48 hours and may consider if there is a good reason for any delay when making an assessment on the information it has received. For instance, the Council would not expect an individual to carry on working as a licensed driver before reporting the matter to the Council.

4.14.5 Appendix B sets out how the Council will assess any information provided to it. The failure to notify the Council as required will be seen as evidence of either dishonesty, a lack of understanding of the licensees' obligations, or both.

4.14.6 The Police may also provide information to the Council under the Common Law Police disclosure provisions where there is a public protection risk. The Council expect any licence holder, when questioned by the Police, to notify them that they are a licensed private hire or hackney carriage driver. Failure to do so will be seen as an element of dishonesty.

4.14.7 Where there is any doubt, the Council shall again apply this test:

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

#### **4.15 Duration of a Driver Licence**

4.15.1 The Council will issue a licence for a 3 year period unless it considers it appropriate to grant a licence for a shorter duration. The Council will consider the aims and objectives of its Policy to determine when it is “appropriate” to grant a shorter licence.

4.15.2 An applicant may consider it is appropriate for a shorter licence to be issued to them and requests this. If, the Council also considers it appropriate to comply with that request it shall do so.

#### **4.16 Renewal of Driver Licences**

4.16.1 Holders of an existing hackney carriage or private hire driver licence must renew their licence before it expires should they wish to continue to drive licensed vehicles.



- 4.16.2 The Council is not under an obligation to remind licence holders when their licence expires. It is a reasonable expectation that a person who requires a licence to carry out their business will take responsibility for ensuring they renew in good time. The Council shall endeavour to remind licence holders of the need to renew approximately 2 months prior to the licence(s) expiry. Where possible this will be done by electronic means and it is therefore important that licence holder ensure all information held by the council is up to date.
- 4.16.3 Renewal applications will require a check of the individuals criminal and driving licence record. Additionally, medical and right to work checks may also occur. The driving and knowledge test will not however be required again on renewal.
- 4.16.4 An application to renew, the appropriate fee and all supporting documentation should be submitted to the Council at least 1 month before the licence expires. A licence will not be renewed without all the required supporting documentation being provided to the Council. Late applications may result in a renewed licence not being granted in time to allow the licence holder to continue to work immediately upon the expiry of their licence.
- 4.16.5 Failure to renew a licence before it expires will result in the licence lapsing and a new application will need to be made. The licence holder will not be authorised to work until a new application has been submitted and all relevant tests and procedures undertaken again.
- 4.16.6 The Council will not provide a “grace period” within which a licence holder is automatically entitled to renew a licence. In exceptional circumstances a licence holder may be permitted to renew a licence after it has expired.
- 4.16.7 Alternatively, a licensing officer may accept a new application but waive some of the requirements of the new application process, if they have previously been completed, would not ordinarily be required again and there is no evidence that the individual has dropped below the previously acceptable standard.
- 4.16.8 The Council will not be responsible for the failure of any driver to remember to renew their licence and does not expect a fit and proper person to be reliant on the Council to remind them to do so. The Council will not give any weight to the failure of a licence holder receiving a reminder as a result of them changing their contact details without formal notification of them to the Council. A licence holder continuing to carry out a licensable activity beyond the expiry date of their licence is inexcusable and suggests that the individual does not take sufficient responsibility for their affairs.

## **5.0 VEHICLE LICENSING POLICY**

### **5.1 Vehicle specifications**

- 5.1.1 Section 47 of the 1976 Act permits the Council to require a vehicle to be of such design and appearance as it considers necessary for the purposes of being a hackney carriage and Section 48 requires the Council to be satisfied that a private hire vehicle is suitable in type, size and design for the purposes of being a private hire vehicle. Additionally the Council must be satisfied of the mechanical fitness, comfort and safety of the vehicle.
- 5.1.2 When licensing a hackney carriage or private hire vehicle the Council must consider first and foremost the need for public safety. Once a vehicle is licensed its

proprietor, driver and operator has the ability to operate that vehicle in rural, urban and motorway environments and make it available to all types of customers. Licensed vehicles must therefore be capable of performing in all such environments whilst also providing convenience and comfort to all types of passengers when doing so.

- 5.1.3 The Council believes it is necessary to consider the type, make, model and mechanical condition and suitability of the vehicles it licences to ensure that:
- a. they are suitable and reliable to attend bookings at the required time and complete a customer's journey;
  - b. that they do not pose any risk or danger to other road users;
  - c. that they offer suitable protection and safety to passengers in the event of a road traffic accident;
  - d. they are not of such design or appearance that that may confuse or mislead passengers or otherwise compromise the safety of passengers;
- 5.1.4 The Council has adopted minimum vehicle specifications and conditions to ensure that licensed vehicles are suitable for all members of the public and all types of journeys and ensure that such vehicles are safe. In considering these specifications the Council must also take into account the suitability of the vehicle in the event of an accident – this includes the security and safety of seated passengers and their means of access from the vehicle in an emergency situation.
- 5.1.5 Whilst the Council recognises that a licensed vehicle may be used by its driver for domestic or personal journey's, the primary purpose of the vehicle is to be a licensed vehicle. As such, when adopting its minimum standards, or if considering departing from them, the Council will only take into account matters that relate to the use of the vehicle as a licensed vehicle to ensure it is safe and suitable for public passengers. Provided that a vehicle meets the minimum specification, the Council will seek to licence as wide a range of licensed vehicles as possible.
- 5.1.6 The Council's detailed vehicle requirements and specification will be set out in Appendix C.
- 5.1.7 It is the responsibility of an applicant to ensure that any vehicle they chose to purchase for the purpose of being a licensed vehicles meets the requirements of appendix C and can comply with any conditions that will be granted in respect to the vehicle.
- 5.1.8 Applicants are advised to check with the Council that a vehicle shall be suitable and will be licensed (subject to the relevant test, insurance etc.) before purchasing a vehicle.

## **5.2 General vehicle requirements**

- 5.2.1 A vehicle must carry the appropriate vehicle certification and be of the approved type set out in paragraph 2 of Appendix C. It must have 4 wheels, a minimum of 4 doors and be suitable to carry a minimum of 4 passengers. This is to ensure the ease of access and egress into the vehicle at all times.
- 5.2.2 Vehicles cannot be licensed by the Council to seat more than 8 passengers. However, a vehicle designed to seat more than 8 passengers may be licensed if the

proprietor of the vehicle can satisfy the Council that measures can be taken to physically prevent the vehicle seating more passengers – such as by removing additional seats.

5.2.3 The primary legislation and case law makes a clear distinction between Hackney carriage and private hire vehicles and the type of work they can undertake. This requires private hire vehicles to be of such appearance so as not to appear as though it is a Hackney carriage.

5.2.4 Vehicles must be maintained in good condition as detailed further in appendix C. That appendix shall also specify the any safety equipment that the Council considers necessary and the type of communication devices that may be permitted in a vehicle and how they must be stored.

### 5.3 **Environmental Considerations & Vehicle Ages**

5.3.1 The Council recognises that the significant use of vehicles on UK roads and the emissions from those has a significant impact on air quality and the environment. The Council has a responsibility to consider the effect of its policies on the environment and it is a subsidiary objective of this policy to promote more environmentally friendly and sustainable means of travel.

5.3.2 The Council also acknowledges that the prominent cause of pollution from vehicle emissions is a result of private car ownership which could reduce if higher quality private hire services are provided more frequently and reliably across the country.

5.3.3 The Council therefore seeks to balance the safety and comfort of the public and the environmental impact of vehicles with the desire to avoid arbitrary restrictions on vehicle age so as not to unreasonably prevent businesses providing their services to the public.

5.3.4 The Council's requirements for vehicles will be based on the Euro 6 emissions category. The Euro 6 emissions category came into effect in 2015 and all new vehicles produced and sold in the UK after September 2016 will be Euro 6 compliant. The Council's minimum age Policy for a new vehicle introduced in 2017 was intended to ensure that its fleet of vehicles all met the Euro 6 standard and was intended to fairly manage the removal of vehicles that are not Euro 6 from its fleet.

5.3.5 The reasonable and proportionate maximum age of vehicles set out in Appendix C reflect the need to ensure that vehicles meet the latest environmental standards, precluding older less efficient vehicles from being licensed. These requirements are also important to ensure that the public in Hertsmere can book suitable and cost-effective vehicles for likely journeys into the near-by Transport for London (TfL) Low Emissions Zone (LEZ).

5.3.6 The Council recognises that purely electric vehicles are expensive and may have service and safety impacts in situations where they cannot service journeys of certain lengths or journey times take longer due to the need to re-charge. At this point the Council does not consider it suitable to require vehicles to be electric only.

5.3.7 Licensed vehicles will often have significant use and high mileage from undertaking long journeys and/or being in use for several hours a day, several days a week may result in older vehicles suffering from such wear and tear that it's metal structural

and parts fatigue rendering the vehicle less safe. This can however be prevented or delayed with regular patience by a careful owner and driver.

5.3.8 The Council will set a “maximum first age” limit for all vehicles proposed to be licensed by the Council for the first time and a “maximum final age” limit for all vehicles holding a licence beyond which a licence will not be granted. The Council will be open to applications requesting that the Council depart from this Policy in line with the section below. In addition to this the Council shall also require vehicles above a certain age to undergo an MOT more frequently.

5.3.9 The maximum first age shall be 6 years and the maximum final age shall be 8.

#### **5.4 Exemptions from Age Policy**

5.4.1 The age of a vehicle will be calculated from the date of its first registration and an application for a new, or renewal of, a hackney carriage or private hire vehicle that is outside of the specified age limits will normally be refused.

5.4.2 Notwithstanding the above the Council accepts that there may be occasions where a proprietor believes that there are exceptional matters relevant to the vehicle that the Council should consider. A proprietor may make a separate “age exemption” application, and pay any extra fee that the Council may require, to consider whether exceptional matters exist in which to depart from its Policy.

5.4.3 The exceptional matters relate only to the vehicle and its condition. A vehicle should not just be in good condition for its age but in a condition that could be expected of a vehicle that would normally meet the age restrictions. If the vehicle is currently licensed an application must be made prior to the expiry of its licence.

5.4.4 The Council will only give consideration to a vehicle over the set age limits if it is Euro 6 compliant (including the Euro 6D and Euro 6D temp). Vehicles that are not Euro 6 compliant may only be considered if the proprietor can satisfy the Council that its emissions meet the Euro 6 level – for instance if converted – or if it is a purpose built wheelchair accessible vehicle.

5.4.5 In considering whether to depart from its policy Officers will also check the history of the vehicle, its previous MOT history, service history, mileage and any enforcement action previously taken. The Council will give favourable consideration to vehicles that are wheelchair accessible. The vehicle shall also be required to pass an MOT and Compliance test from the Council’s authorised garage prior to consideration.

5.4.6 If a licence is granted following an age exemption application the vehicle will continue to be licensed until the expiry of the licence or until such time as a disqualifying event occurs – such as a mechanical or cosmetic defect - whereby the vehicle is no longer exceptional.

5.4.7 If the vehicle requires repair work and will not be completed prior to the expiry of the previous licence, a valid renewal application and fee must be received prior to the previous licence expiry date for this section to apply.

#### **5.5 Mot and Compliance Test**

- 5.5.1 To satisfy the Council that a vehicle is in suitable condition to be licensed the vehicle must be tested by the Council's appointed vehicle testing station and satisfactorily pass both an MOT and an additional compliance test of the vehicles suitability to be a licensed vehicle. The vehicle shall also undergo an emissions test as part of the MOT.
- 5.5.2 The MOT and compliance test certificates confirming that the vehicle has passed must be presented to the Council no later than 14 days after the test is completed.
- 5.5.3 The Council will not licence a new vehicle that has passed its MOT with advisories. Currently licensed vehicles that renew a licence and produce an MOT which contain an advisory may be granted if the advisories do not indicate a public safety risk and officers can establish that the issue is rectified. In all other cases, the applicant must make the appropriate repairs and present a new MOT certificate.
- 5.5.4 A licensed vehicle that fails its test should not be used until such time as it is in suitable condition and where the testing station reports the matter to the Council the vehicle may be suspended.
- 5.5.5 Hackney Carriages licensed by Hertsmere Borough Council must also comply with Council bye-laws which set out requirements for a metre, roof sign and table of fares to be shown. These shall also be checked as part of the certificate of compliance.
- 5.5.6 It is expected that all vehicles are maintained, serviced and inspected in accordance with the manufacturer's recommended schedule in terms of both mileage and time elapsed. The failure to maintain a vehicle satisfactorily may call into question the suitability of an individual to hold a licence as well as the vehicle.
- 5.5.7 Vehicles under the age of 4 will require only one MOT a year, carried out within 14 days of a new or renewal application. Vehicles over the age of 4 will require 2 MOT's a year, subject to the paragraph below.
- 5.5.8 Any vehicle holding a valid private hire or hackney carriage vehicle licence on the date this policy takes effect will be required to only have one MOT test a year until the vehicle reaches the age of 8. This is because such vehicle would have been licensed under the provisions of the Council's previous policy and obtained its licence when it was under the age of 4.
- 5.5.9 Any vehicle that is subject to a new application after the date this Policy takes effect will be required to have 2 MOT tests a year once the vehicle is aged 4 years or older.
- 5.5.10 Where a vehicle is required to have a second MOT the licence holder will be conditioned to do this within 14 days either side of the 6 month anniversary date of the grant of the relevant licence. The requirement for the second MOT will take effect upon the grant of any new, or renewed licence, that occurs after the vehicle has reached the relevant age limit.
- 5.5.11 Failure to undertake the second MOT as conditioned will result in the suspension of the vehicle which will not be lifted until such time as a valid MOT certificate is provided.

5.5.12 The Council reserves the right to request any proprietor to present a new MOT certificate at any time during the period that a vehicle is licensed or, if on the individual merits of an application or enforcement measure, condition a vehicle to be tested twice a year.

## **5.6 Insurance**

5.6.1 The proprietor of a licensed vehicle must ensure that an insurance policy complying with the requirements of Part VII of the Road Traffic Act 1988 is in place at all times that the vehicle is licensed and available for the carrying of passengers. Before granting a licence the Council must be satisfied that the vehicle is correctly insured for its proposed use and will continue to be so throughout the duration of the licence.

5.6.2 An insurance certificate for a Hackney Carriage must state that it covers public hire and hire and reward;

5.6.3 An insurance certificate for a Private Hire vehicle must state that it covers private hire and reward only. An insurance certificate for a private hire vehicle also stating public hire will not be accepted

5.6.4 The certificate(s) of insurance must cover each named driver who will be driving the licensed vehicle and should not include the name of any person who does not hold a Hertsmere Borough Council drivers' licence for that type of vehicle.

5.6.5 A cover note may be accepted upon the grant of a licence provided that a certificate of insurance is produced at the earliest opportunity and no later than 14 days of the grant.

5.6.6 Where the Council is not satisfied that appropriate insurance is in place the vehicle licence will be suspended.

## **5.7 Criminal Record Check**

5.7.1 In line with the Governments recommendations, proprietors of a licensed vehicle must provide a basic criminal record disclosure. A criminal record will not be required where the applicant is a licensed driver or operator and has already provided the Council with an up-to-date criminal record check.

5.7.2 Where a vehicle is jointly owned, or owned by a company, each individual owner or director shall need to provide the appropriate DBS check.

5.7.3 The criminal record, and other suitability of a proprietor will be, judged in line with the guidance for drivers and operators. However, the Council shall bear in mind that the test of fit and proper does not apply to a proprietor in the same way that it does to a driver.

## **5.8 Vehicle Registration Document**

5.8.1 The Vehicle Registration Document (Log Book/V5) certificate for the vehicle must be provided. This will allow the Council to confirm that the vehicle meets the required type approval set out in appendix C, the vehicles age and the address where the vehicle is normally kept.

- 5.8.2 Where the vehicle has recently been purchased an applicant may present at the time of first application the new keeper's supplement section of the V5 document along with other documentary proof such as the bill of sale. In such instances a licence will be granted subject to the condition that the log book is provided to the Council within 1 calendar month of the licence being granted.
- 5.8.3 Whilst the V5 does not confirm legal ownership it does provide assurance as to the individual with the right to keep the vehicle and the applicant for the licence is expected to be the person named as the registered keeper of the vehicle. The registered keepers address is where the DVLA and the Council would normally expect to find the vehicle and the licence holder.
- 5.8.4 In some instances, such as in the case of vehicle hire, this might differ – the Council therefore will accept an application from an applicant who is different to the registered keeper where the registered keeper provides written consent to the application and the Council is satisfied as to the reasons for the difference.

## **5.9 Road Tax**

- 5.9.1 All licensed vehicles must be taxed, or if exempt, registered correctly as such. The Council is not the enforcing agency for the failure to pay road tax, however, given the aim of the Council to reduce crime and ensure its licence holders are fit and proper a licence may not be granted or may be suspended if a vehicle is not correctly taxed.

## **5.10 Hackney Carriages**

- 5.10.1 Hackney Carriage vehicles must be of a "London TX style", purpose built and wheelchair accessible but can be of any colour. The Council will also licence any other purpose-built wheelchair accessible vehicle as a Hackney Carriage provided that it is black in colour.
- 5.10.2 Hackney Carriages must comply with the Byelaws in Appendix I which require, amongst other things, illuminated roof-mounted signs displaying the word 'TAXI' or "FOR HIRE" and be fitted with a meter calibrated to the Council's set table of fares.

## **5.11 Private Hire Vehicles**

- 5.11.1 Private hire vehicles must not appear to be a Hackney carriage and may not display a roof sign or any other sign indicating that they are available for immediate hire.
- 5.11.2 The Council shall not licence any purpose-built mini-bus, multi passenger vehicle or people carrier which is coloured black.
- 5.11.3 Meters should not be installed in, or used by the driver of, a private hire vehicle so as to give the impression that the customer is engaging in a public hire with the driver. Any meter or similar device must first be approved by the Council before use. The Council will need to know that that the meter is calibrated to the fares of one operator and once done, sealed. The meter will need to be recalibrated if the operator changes their fares or the vehicle is operated by another operator.

5.11.4 Private hire vehicles should, unless exempt, display door signs identifying it as a private hire vehicle which must be booked in advance through an operator.

## **5.12 Wheelchair Accessible Vehicles**

5.12.1 The Council wishes to encourage wheelchair accessible vehicles but must also ensure that they are safe. Minimum specifications for these vehicles are set out in Appendix C.

5.12.2 Where a request is made to the Council to consider departing from its Policy, the Council will take into account whether the departure would allow a wheelchair accessible vehicle to be licensed, and seek to permit this subject to the overriding objectives of this Policy.

## **5.13 Limitation on Vehicle Numbers**

5.13.1 The Council recognises that it has the power to do so, but has chosen not to limit the number of hackney carriages it licenses.

5.13.2 The Council does not have the power to limit the number of private hire vehicles.

## **5.14 Dual Plating**

5.14.1 The Council will not licence a vehicle as either a hackney carriage or private hire vehicle if it already holds a licence with another authority. This is due to the fact that a vehicle licensed by two authorities would need to display two plates, two separate operator signage documents and two sets of conditions. This would make compliance and enforcement impracticable as well as cause confusion to the public.

5.14.2 If a vehicle licensed by the Council is found to have also been licensed with another authority the Council will take enforcement action which will result in the suspension or revocation of the licence as well as a possible action against the driver and or proprietor.

## **5.15 Intended Use Policy**

5.15.1 The Council does not have an intended use Policy in respect to its Hackney Carriages nor any similar proposal to restrict Private Hire Vehicles. It is recognised that the law permits the legitimate use of a vehicle licensed by the Council outside the Borough of Hertsmere and, understandably it would be impractical for any licensed driver to be restricted to only picking up and dropping off in the Borough.

5.15.2 Notwithstanding this, the Council also takes its responsibility to regulate the drivers, vehicles and operators it licences seriously. Effective regulation to protect the safety of the public cannot be achieved where vehicles and drivers licensed by one Council spend the majority of their time working in another district. This practice undermines the ability of local residents to have a say, via their elected Councillors, in the safety of the drivers and vehicles servicing them.

5.15.3 Consequently, the Council remains open to the consideration that a driver, operator or proprietor may not be fit and proper to be licensed if they seek to operate in a manner that prevents the appropriate regulation of their activities. Equally the



Council may have similar concerns about drivers and vehicles licensed by other Councils working predominantly in the Borough, particularly where they are operated by Hertsmere Borough Council licensed operators to service Hertsmere residents.

### **5.16 Livery, Signage and advertising**

- 5.16.1 The requirements stated in this Policy and the Vehicle Specification of Appendix C are appropriate for the Borough to ensure that hackney carriages and private hire vehicles are easily identifiable. No standard livery beyond this is currently required.
- 5.16.2 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 proprietor and driver will be responsible for ensuring that the flag does 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.
- 5.16.3 Whilst occasions of major sporting or non-sporting events are often self-evident, the Council will have full discretion to determine if an event qualifies. If there is any doubt, a licence holder should clarify with the licensing team if a flag is suitable to be displayed.

### **5.17 Plates**

- 5.17.1 Hackney carriages and private hire vehicles are required by the 1976 Act to display a licence plate on the vehicle identifying it as a licensed vehicle. The Council also provide an internal plate to be displayed in the front windscreen where it can be observed by passengers.
- 5.17.2 The Council shall condition the plate to be displayed externally on the rear of the vehicle in a specified manner and one internally in the front windscreen.
- 5.17.3 The failure to display a vehicle licence plate is a criminal offence and save for any period in which the vehicle licence is suspended, proprietors and drivers will be subject to enforcement action for failing to ensure it is displayed at all times.

### **5.18 Exemption from displaying plates**

- 5.18.1 The open display of an identifying licence plates is intended to protect the public and support the trade, by identifying the vehicle as being regulated and approved by the Council. However, there are occasions when the display of a vehicles identification may have the opposite effect and undermine customer safety or create commercial implications for the operating business.
- 5.18.2 For this reason the Council may, upon application, exempt a licenced vehicle from displaying its plate. Such vehicles are known as "plate exempt" vehicles and further details are provided at Appendix E. The Council may charge a fee for an application for a new, or renewal of, a plate exemption status.
- 5.18.3 Exempt vehicles shall instead carry the plate and a Council issued letter of exemption at all times. When permission not to display a plate has been given, an unobtrusive blue licence must be displayed on the front windscreen. Exemptions will only be given to vehicles used for executive hire, corporate contracts, or work of a similar nature.

- 5.18.4 It shall not normally be the case that a vehicle proprietor will be given plate exemption status if the intention is to carry out a combination of 'exempt' work and 'non-exempt' work. However, where the Council is satisfied that the applicant for a plate exemption can effectively manage this, the exemption may still be granted.
- 5.18.5 It is not intended that the majority of private hire vehicles would be granted this exemption, only those operating the type of service where the display of a licence plate either endangers the safety of one or more members of the public or restricts a legitimate business need. To that end an exemption will only be granted where the applicant is able to satisfy the Council that:
- a) There is no public safety risk
  - b) There is a legitimate business or service requirement
  - c) The vehicle is suitable for the purposes outlined by the applicant
- 5.18.6 The Council does not think it is appropriate to specify the types of use that it considers would show a legitimate business or service need. It does expect a new applicant to show an identified customer base who wish to use the vehicle in question exclusively without the display of a licence plate. This may be done either by the provision of the relevant contracts or booking allocations or the applicants own market research. Once granted an exemption from displaying the plate the vehicle must only carry out the type of work specified.
- 5.18.7 As the despatch of a plate exempt vehicles can only be done by a private hire operator the Council will require every application for a plate exempt vehicle to enclose a supporting statement from the relevant operator unless the proprietor is also the only operator of the vehicle. Operators who despatch both "plate exempt" and "plated" vehicles will need to satisfy the Council that they have provisions in place to ensure that the plate exempt vehicle would not be used for any bookings other than those which justify the plate exemption status.

## **5.19 Grant and Renewal of Licences**

- 5.19.1 Application forms, the process and all supporting documentation required, are detailed in Appendix A. Complete applications should be made at least 5 working days before the date in which the applicant requires the licence to begin. Incomplete applications will be returned to the applicant and not considered valid until all required documents are provided.
- 5.19.2 Holders of an existing hackney carriage or private hire vehicle licences will be reminded when their licence(s) is due to expire. This reminder will be sent approximately 2 months prior to the expiry of the licence. The reminder service is a courtesy and it remains the licence holder's sole responsibility for ensuring they make their application in accordance with this Policy.
- 5.19.3 A licence will not be renewed without all supporting documentation being received and satisfying the requirements of this Policy.
- 5.19.4 Hackney carriage and private hire vehicles will not be licensed for more than a period of 12 months but may be granted for a shorter duration if considers necessary and appropriate in the circumstances.
- 5.19.5 The Council believes that it is reasonable for the processing of routine vehicle applications to take up to 5 working days to be considered and granted. The applicant is responsible for ensuring that applications are made with this time frame in mind. If a licence has not been issued at the point when an existing licence

expires, the vehicle cannot be used as a licensed vehicle. Despite the 5 working day requirement every effort will be made to ensure continuity of trade.

5.19.6 In some circumstances an application may take longer than 5 working days, such as where there is a concern the vehicle does not meet the required specifications or further consideration about the suitability of the applicant is needed.

## **5.20 Duties of Licensed Proprietors**

5.20.1 The Council must be notified as soon as reasonably practicable of any damage to the vehicle, and no later than 72 hours after such occurrence.

5.20.2 The Council should be informed promptly, and in line with the conditions of licence, of any change in name and address of a proprietor or the driver of the vehicle.

5.20.3 Proprietors must notify the Council if they are:

- a) Arrested for any criminal offence;
- b) Charged with a criminal offence;
- c) Convicted of a criminal offence;
- d) Cautioned for a criminal offence;
- e) Issued with a fixed penalty for any offence;

5.21 The Proprietor should notify the Council no later than 7 days of any offence, but criminal offences of a sexual, violent or dishonest nature should be reported within 48 hours.

## **5.22 Change in ownership**

5.22.1 A licensed vehicle remains the property of its owner who is free to dispose of his or her interest (i.e. sell the vehicle) as they wish. Section 49 of the 1976 Act requires the proprietor of a licensed vehicle to notify the Council in writing within 14 days of any transfer in the ownership of a that vehicle to another person.

5.22.2 However, the proprietor(s) named on the licence remain legally responsible for the vehicle's compliance with the 1976 Act, 1847 Act, bye-laws and licence conditions until such time as the Council are notified. Licence holders are strongly encouraged to contact the Council prior to a transfer in ownership or immediately afterwards.

5.22.3 There is no ability for the owner of a vehicle to transfer the licence to another person. The licence is granted to the named proprietor(s) and on the basis that the proprietor owns the vehicle and is suitable to be granted a licence. The licence will be conditioned to lapse 14 days after the proprietors interest in the vehicle is transferred. The licensed plates must be removed returned to the council.

5.22.4 If the vehicle ownership has been transferred to another person who wishes to continue to use the vehicle as a licensed vehicle an application must be made to the Council requesting that the vehicles licence is registered to them.

## **5.23 Change of Vehicle**

5.23.1 A vehicle licence is issued in respect to a specific vehicle and cannot later be varied or altered to apply to another vehicle. In some instances, the holder of a vehicle licence may wish to cease using their licensed vehicle and instead use another vehicle for licensed purposes.

5.23.2 The licence holder must apply for a new licence in respect to the new vehicle but may receive a refund of any part of the fee paid by the Council that is in respect to the enforcement of the licensing regime that has not been used and will be repaid on a pro-rata basis. This is to ensure that a proprietor is not penalised by paying twice for the same enforcement cost.

#### **5.24 Security / Closed Circuit Television (CCTV)**

5.24.1 The Council does not consider it necessary to adopt a Policy requiring any enhanced security features, such as a screen between driver and passengers or CCTV in its licensed vehicles. Presently there is not sufficient evidence that such requirements are necessary and proportionate to the cost that would be incurred by the trade to implement them. Whether such measures are necessary shall be left to the judgment of individual operators, owners and drivers.

5.24.2 There are benefits to the trade and passengers where CCTV or other security measures are installed in licensed vehicles – such as deterring criminal activity in the vehicle, reducing the number of customers who abuse drivers or fail to pay and provide evidence for the Council, Police and insurance companies when dealing with complaints.

5.24.3 No CCTV system, screen or any other security feature is permitted to be installed without first obtaining the approval of the Council. The Council wishes to support the trade in taking sensible measures to protect drivers and passengers in licensed vehicles and will look sympathetically at any request to install additional security measures in a licensed vehicle.

5.24.4 Whilst the Council encourages drivers, proprietors and operators to consider the installation of CCTV in their vehicle there are data protection concerns arising from the use of such systems. Proprietors of licensed vehicles are responsible for ensuring that any installed CCTV conforms not only to the Council's requirements but also applicable Data Protection legislation.

#### **5.25 Speciality vehicles, (including stretched Limousines, vintage cars etc.)**

5.25.1 The Council recognises that there is a commercial market for vehicles such as stretched limousines and other speciality vehicles. Such vehicles are likely to not meet the specifications in Appendix C.

5.25.2 The Council will depart from its Policy and the requirements set out in the above appendix and licence such vehicles provided that:

- a) It is reasonable to consider the vehicle as a speciality vehicles;
- b) The Council is satisfied that the vehicle is safe and suitable for the purpose it is used (this may require specific testing arrangements to be put in place for the vehicle);
- c) That bookings shall only be taken in respect to the vehicle for the specified purpose (i.e. not used for general private hire work);
- d) That the customer is aware of the type, make and model of the vehicle when the booking is made;
- e) The proprietor ensures that any relevant safety measures reasonably required by the Council are put in place.

5.25.3 In determining whether a vehicle can be genuinely consider a "special vehicle" the Council will look at the novelty, uniqueness or rarity of the vehicle and any commercial demand for that vehicle.

5.25.4 Any speciality vehicle licensed by the Council will be expected to comply with the vehicle licence conditions set out in Appendix G, save for any reference to the specification of Appendix C. The Council may charge an additional fee for the consideration, processing, grant and enforcement of and application and any subsequent grant of a licence in respect to a speciality vehicle.

5.25.5 Any vehicle granted a licence will be provided with its own licence, conditions and plate. Certain conditions, such as the display of the plate, may be waived by the Council and will be confirmed in writing to the applicant.

## **5.26 Trailers**

5.26.1 The use of a trailer is not encouraged. A vehicle should have sufficient means for passengers and luggage. A trailer may however be permitted by Council following an application provided that the use is considered reasonable for a one-off purpose.

5.26.2 Trailers will not be permitted on a hackney carriage rank and approval will not normally be given to a hackney carriage unless the Council is satisfied that the trailer will only be used for specific pre-booked journeys and it is reasonable for a trailer to be used. Further specifications for the use of a trailer are set out in Appendix C.

## **5.27 Vehicles that do not require a licence from the Council**

5.27.1 Some vehicles are exempt from the private hire regime. This includes;

- a) Vehicles that seat 9 passengers or more;
- b) Funeral and wedding Vehicles
- c) Cars not operated in, or incidental to, the course of a business;

5.27.2 Vehicles that seat 9 or more passengers and are provided for hire fall into a separate regulatory regime covering buses, minibuses and coaches.

5.27.3 A licence is not needed where a vehicle is being wholly or mainly used by a person carrying on the business of a Funeral Director or is used in connection with a funeral, or a wedding.

5.27.4 It is the responsibility of any person providing/ driving a vehicle or carrying out any form of business to check that an activity does not require a licence before carrying that activity out. The Council encourages applicants to check with the Council first.

5.27.5 The question as to whether an activity is licensed will largely depend on the individual facts, the nature of the activity and the perceived business benefit derived.

5.27.6 When considering if a licence is required the Council will have regard to the latest DfT guidance issued in respect to the matter as well as the overriding objectives of this Policy. The DfT guidance indicates that certain activities should not be considered licensable, such as transport provided by childminders, volunteers, and ambulances.

## **5.28 Unlicensed businesses**

5.28.1 The Council will proactively enforce against unlicensed businesses. Where it is suspected that an operation requires a licence the business will first be advised by the Council that they consider licensing as necessary and will seek to discuss how the operation is carried out.

5.28.2 If a business fails to cooperate, poses a clear risk to public safety, or continues to operate without a licence the Council expects that it will initiate a prosecution.

## **6. POLICY ON LICENSING PRIVATE HIRE OPERATORS**

### **6.1 Requirement for a Licence**

6.1.1 Any individual, partnership, company or other body who makes provision for the invitation or acceptance of bookings for a private hire vehicle in the course of business is a private hire operator and requires a licence.

6.1.2 The invitation and acceptance of bookings may be provided for in a variety of methods - by telephone, e-mail, internet, smart phone applications, in writing, visiting an office in person or by any other communication means.

6.1.3 A private hire operator is jointly responsible for ensuring that the vehicle they dispatch is a licensed vehicle. This means that they must ensure that the licence held in respect to the vehicle despatched is not invalidated in anyway, the vehicle is correctly insured and has a valid MOT. The operator forms a contract with the customer for its service and may be liable for any failings in the performance of that contract.

6.1.4 The use of a private hire vehicle that has not been correctly booked and despatched through a licensed operator is illegal. In addition to the criminal offence, the use of an incorrectly booked private hire vehicle invalidates that vehicles insurance and can result in there being no record of a journey having been undertaken.

### **6.2 Safety concerns of incorrectly booked vehicles**

6.2.1 There is significant case law about what constitutes the acts of either unlawfully standing or plying for hire. This is a practice where the driver of a private hire vehicle takes a booking directly, rather than through their operator, and creates a number of safety concerns. Firstly, as the act is unlawful, the licence does not cover the journey and the vehicle insurance is invalidated. The Council must be satisfied that appropriate insurance is in place for a vehicle at all times and places its trust in a fit and proper driver. Choosing to invalidate the insurance suggests that the driver does not meet this test.

6.2.2 Secondly, the absence of any record of the journey being undertaken means that an individual driver could take advantage of a vulnerable person in the knowledge that there will be no evidence that the journey took place. This can also have consequences if a customer loses property in a vehicle as it will be difficult to trace.

6.2.3 Thirdly, the lack of any record of the journey can result in the earnings of the relevant driver not being disclosed to the HMRC.

6.2.4 Lastly, but not least, the practice takes advantage of the ignorance of the general public about the licensed trade. This lack of understanding and observation increases the risk of a member of the public getting into a vehicle that is either not licensed at all, or driven by a driver without a licence.

- 6.2.5 The Council does not encourage licensed drivers without a booking to position their vehicles in a prominent position which may create the appearance of that the vehicle is available for the invitation or acceptance of a booking, whether this is the case or not.
- 6.2.6 Operators should discourage this and not take a booking directly from a driver unless there are exceptional circumstances. Exceptional circumstances would include situations where the customer is vulnerable, unable to make the call to the operator and could come to harm should they not be taken home. In such situations the driver should contact the operator and explain why they are making the booking and the operator should ensure this is recorded.

### **6.3 The Application Process**

- 6.3.1 The Council will not issue a licence unless satisfied that an applicant is 'fit and proper'. The Council however recognises that the test of whether an operator is fit and proper is not the same as whether a licensed driver is fit and proper.
- 6.3.2 Applications for operator licences shall be made on the Council's prescribed form, together with the appropriate fee, see Appendix A. The process shall enable the Council to determine the suitability of the applicant.

### **6.4 Fitness and Propriety**

- 6.4.1 Whilst the licensed operator is not the individual who drives members of the public in the private hire vehicle and not an immediate physical risk to passengers, the operator is responsible for despatching that vehicle and driver.
- 6.4.2 Operators are required to ensure that the number of vehicles that they operate and their drivers are safe and suitable whilst additionally managing the bookings they receive. Operators have access to the personal details of their customers, including information about their customers whereabouts and occasions where their home may be empty. For this reason it is imperative that those licensed as operators are fit and proper.
- 6.4.3 The Council will require evidence of the applicant's criminal record history. If an applicant is also a licensed driver a new criminal record check will not normally be necessary. If the applicant is not a licensed driver they will be asked to provide basic criminal record disclosure.
- 6.4.4 Additionally the Council will consider any other information of which it may be aware, such as that provided from the Police, Children and Adult Safeguarding Boards, other licensing authorities and/or statutory agencies. This could include evidence of non-compliance or lack of understanding with other statutory regimes. The Council may, if considered necessary, consult such bodies on an application.
- 6.4.5 When considering if an application is fit and proper the guidelines expressed in Appendix B of this Policy apply to operators as they do to drivers. The Council recognises that the test of 'fit and proper' may be required to be applied differently on the individual merits of an application for an operator licence than that of a driver due to the different role.

- 6.4.6 Being fit and proper to drive a licensed vehicle does not necessarily mean that an individual is fit and proper to be an operator, nor that a person licensed as an operator is fit and proper to be a licensed driver. The Council would not, however, expect to grant an operator's licence, or continue to licence an operator, who it has considered not to be fit and proper to be a driver, either following a refusal of an application for, or revocation or suspension of, a private hire or hackney carriage driver's licence.
- 6.4.7 Operators will be conditioned to have a basic criminal record check every year, unless they also hold a drivers licence issued by the Council and are subject to more frequent checks.
- 6.4.8 Where the applicant is more than one individual or is its own legal entity (for example a company, partnership, or other organisation) the requirements for a criminal record check shall apply to all individuals forming that entity such as each partner or director. The Council may, at its discretion, not require a criminal record check from every director/partner if satisfied that they play no operational or management role in the despatch of private hire vehicles. Similarly, if an individual is responsible for the management of the business but is not a director or partner, the Council may request that a DBS for that person is also provided.

## **6.5 Right to Work Checks**

- 6.5.1 Operators must have the right to work in the UK as a private hire operator. A licence will not be granted where this cannot be shown. In determining the right to work and the appropriate documentation required, the Council will refer to the Home office guidance.

## **6.6 Address from which a Private Hire Operator may operate from**

- 6.6.1 An application must state an address within the Borough of Hertsmere from which the operator will be making available the provision for inviting or accepting private hire bookings, in order to be granted a licence. The Council will specify the address on the licence.

## **6.7 Other regulatory restrictions in respect to premises**

- 6.7.1 Operators are responsible for ensuring that other relevant permission is in place in respect of the premises. An operator's premises may require planning and building control permission which the applicant is responsible for ensuring they are compliant with.
- 6.7.2 Operators that provide a waiting facility for members of the public and/or drivers must not make available any gaming machines regulated under the Gambling Act 2005 and ensure the smoking is not permitted as required by the Health Act 2005. Operators will also be required to carry out the relevant health and safety and fire safety risk assessments.
- 6.7.3 Operators must also ensure that they comply with the provisions of the Data Protection Act 2018, incorporating the EU General Data Protection regulations into UK law. All data held by operators in respect to their customers should be managed in accordance with these provisions.



6.7.4 As these matters are not enforced by the Licensing team it is the applicant's responsibility to take steps to ensure that they comply. However, where any of the other relevant enforcing bodies feels it has been necessary to take enforcement action against a licensed operator for breaches of another regulatory regime, or the Council becomes aware of a breach, the Council will consider that to be evidence sufficient to review whether an operator is fit and proper.

## **6.8 Insurance**

6.8.1 Where an applicant intends to make available any part of his premises to be open for the public to attend, the applicant must produce evidence that appropriate public liability insurance is in place covering the premises to be licensed. If the premise is not open to the public, the applicant must sign a declaration stating that their premises is not open to the public.

## **6.9 Change of Address**

6.9.1 A licensed operator must notify the Council in writing of any change of their home address or operating address during the application period or the duration of the licence. The operator must also provide proof of public liability insurance for the new premises if open to the public. Any change in details must be notified to the Council in writing within 7 days of such a change taking place.

## **6.10 Operator addresses outside the district of Hertsmere Borough Council**

6.10.1 The Council will not grant a private hire operator licence to an applicant whose operating base is outside the Hertsmere Borough. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is not intended to be a restraint of trade.

6.10.2 The Council may depart from this requirement in exceptional circumstances where the applicant can satisfy the Council that they have a clear need to be licensed by Hertsmere Borough Council. For instance, if they predominantly provide their service to Hertsmere residents, or where an already licensed operator moves to a different address that remains in reasonable proximity to the Borough.

6.10.3 The Council does not believe that it is right to licence Operators who do not provide a service involving the provision of Hertsmere licensed vehicles to Hertsmere residents. In applying the objectives of this Policy, Hertsmere Borough Council believes that effective regulation must be necessary to protect the public.

## **6.11 Licence Duration and renewal**

6.11.1 This Council will grant a private hire operator licence for a period of 5 years. The Council does however have the discretion to issue licences of a shorter duration if it considers this to be necessary given the circumstances.

6.11.2 The Council will endeavour to provide a reminder to the licence holder 2 months prior to an operator licence expiring. However, it is the licence holder's sole responsibility for ensuring they make their application in accordance with this Policy.

## **6.12 Conditions for Private Hire Operators**

- 6.12.1 The Council has the power to impose such conditions on an operator's licence as it considers reasonably necessary. The standard conditions set out in Appendix H are those considered to be reasonably necessary in all circumstances. The Council may however impose further conditions than these if considered reasonably necessary.
- 6.12.2 All Hertsmere private hire operator licence will be granted with these conditions and must be displayed prominently if the premises are open to members of the public.

### **6.13 Control of drivers working hours**

- 6.13.1 The traditional private hire business model involves drivers of private hire vehicles being self-employed and paying a fee to an operator to be provided with work. Under this business model the driver and operator should be free to reach whatever working arrangement they wish to agree.
- 6.13.2 Where a driver is self-employed EU regulations providing restrictions in respect to working hours and those that apply to other professional driving fields such as the fitting of tachographs or requirement to hold the Certificate of Professional Competence (CPC) do not apply.
- 6.13.3 Operators have a clear legal duty to their customers and other members of the public who may be harmed by the acts or omissions of a driver in a vehicle they despatch. and should carry out its own risk assessment. The increased safety risk of a tired driver is obvious and the Council expects a fit and proper operator to have a level of control and consideration over the hours a driver works to ensure that the public are safe.
- 6.13.4 A professional driver should not drive continuously for more than 2 hours without at least a 15-minute break. Operators should review their risk assessments regularly and consider setting and enforcing suitable limits for the amount of time drivers will be permitted to drive without a break for one journey, as well as total hours each day, week or month.
- 6.13.5 Operators should also consider the quality of breaks, a short break between bookings is not necessarily sufficient, and if the driver works for another operator, or has another job which may affect their ability to drive.

### **6.14 DBS Checks if despatch staff**

- 6.14.1 Private hire operators must have and maintain a register of 'relevant staff' who undertake a 'relevant role' on behalf of the Operator and have contact with the public and/or oversee the despatch of private hire vehicles.
- 6.14.2 A "relevant role", is one which involves an individual being involved in the receipt of bookings for private hire vehicles, despatch private hire vehicles or may otherwise have access to the personal data of customers or drivers.
- 6.14.3 Any person who is to be employed, engaged or permitted to act in a relevant role is referred to in this Policy and operator licensing conditions as "relevant staff".

The individual does not have to be paid or under a contract of employment to be “relevant staff”. Any person acting in a relevant role falls into the definition.

- 6.14.4 The Operator should obtain a basic criminal record check for each ‘relevant staff’ member before they are employed and have a convictions policy setting out what grounds the operator may consider to indicate a person is not suitable to work as a relevant staff member
- 6.14.5 The Operator is responsible for ensuring that they can evidence to the Council that the check has been carried out, but is not expected to keep or produce either the original or copy of the criminal record certificate. The operator should also provide each staff member with a contract of employment that requires the individual to notify the operator within 7 days of any convictions or cautions.
- 6.14.6 Operators may outsource its booking or despatch functions – such as by using “call centre” type environments. Operators using any such system should evidence that they ensured that comparable protections for the checking of staff are in place.

## **6.15 Cross Border Hiring / Sub-Contracting Bookings**

- 6.15.1 Section 55A of the 1976 Act (inserted by the Deregulation Act 2015) permits operators licensed by the Council to sub-contract a private hire booking to a second operator provided that the second operator also holds a private hire operator’s licence.
- 6.15.2 To be lawfully despatched, private hire vehicles must be licensed by the same Council that licenses the despatching operator. Operators that accept a booking remain legally responsible for that booking, even if sub-contracted to a second operator. They remain liable for both criminal offences and civil disputes for a breach of contract. Sub-contracted bookings should be recorded by the Operator the same as any other booking along with the details of the operator to whom it was sub- contracted.
- 6.15.3 Customers who book through a licensed operator expect a vehicle to be provided that is directly controlled by that operator and not one licensed by another district. The Council aims to have the highest standards possible appropriate for its district as approved by Hertsmere Councillors elected for that purpose by Hertsmere residents. Other local authorities have different standards, appropriate for their district, as approved by their Councillors acting for their residents.
- 6.15.4 It may be appropriate for operators to sub contract in order to provide a certain type of vehicle that is not on its fleet such as a wheelchair accessible vehicle.
- 6.15.5 However, the widespread use across England of vehicles licensed by one district but operating predominantly in another undermines the democratic rights of residents being able to influence the standard of drivers and vehicles provided to them. The Council has limited ability to take enforcement action against drivers and vehicles licensed by other authorities and expects that an operator can satisfy the Council that the use of vehicles licensed by another district are not undermining the public safety objective of the Council.

- 6.15.6 The Council may, upon the investigation of a complaint, take action against an operator where they have sub-contracted a booking to another operator and failed to exercise all due diligence to ensure that the person making the booking was transported in compliance with the standards imposed by the Council, in a suitable vehicle and with a suitable driver.
- 6.15.7 An operator cannot sub-contract a booking directly to a licensed driver. Bookings must only be sub-contracted to another licensed operator and it is the first operators responsibility to ensure that the second operator is appropriately licensed.
- 6.15.8 Operators should advise the customer that the booking will be sub-contracted to another licensed operator and provide the details of that licensed Operator. The Council considers that if a member of the public book a private hire vehicle through a Hertsmere licensed operator, it is an expectation and implied condition of the contract that the vehicle and driver supplied are licensed by Hertsmere Borough Council.

## **7.0 ENFORCEMENT AND COMPLAINTS**

### **7.1 The Rationale for Enforcement**

- 7.1.1 The administration of a licensing regime, the adoption of a policy and the imposition of conditions designed to protect the public are of no value if they are not enforced by the Council. The failure to take appropriate enforcement action also undermines the efforts of the responsible members of the trade who comply with the terms of their licence.
- 7.1.2 Offences may be committed by licence holders either contrary to the provisions of primary legislation enforced by the Council, the conditions imposed on licences under the primary legislation or, in relation to Hackney Carriages the bye-laws adopted by the Council. A list of all offences related to hire vehicles,, drivers and operators are contained at Annex J.
- 7.1.3 Non-compliance with the provisions of this Policy (and its codes of conduct), do not, directly, constitute a criminal offence. Some of these requirements are imposed as Licence conditions and the non-compliance with them will be an offence. Regardless of whether it is conditioned or not, the failure to comply with a Policy requirement would indicate an individual is not fit and proper and may be considered as such as the Council.
- 7.1.4 Offences may also be committed under legislation enforced by different authorities. The Licensing team cannot investigate or take action in respect to such offences. A sanction issued by another department or body may be taken into account by the Licensing team when considering if a licence holder is suitable to be licensed.
- 7.1.5 Where the Council is aware of an allegation made about a licence holder that requires enforcement action by another agency, the licensing team will co-operate with that agency subject to any legislative restrictions that may inhibit that cooperation.

7.1.6 Notwithstanding whether any enforcement action is taken by another body in respect to an allegation, if the Council considers an allegation made to be of such concern, that if true, there is a risk to the public the Council will still take action review any licences held.

## **7.2 How the Council will enforce**

7.2.1 The Council will enforce the licensing regime through a mixture of reactive work, such as investigating complaints, and pro-active work such as test purchases, vehicle testing operations or inspections of operators.

7.2.2 Proactive work is considered important and necessary to detect whether individuals are driving vehicles who are not licensed, vehicles are being maintained in a safe condition, licence conditions are complied with and criminal offences are not being committed. Targeted enforcement operations may be carried out based on intelligence received as well as for compliance purposes.

7.2.3 The Council may undertake compliance checks of operator records and of drivers and vehicle proprietors. The Council may request the production of any documentation from those holding licences to confirm compliance with the legislative provisions, conditions of licence, bye-laws and this Policy.

7.2.4 The Council will share information with other agencies in respect of potential illegal activities and enter into joint enforcement operations with other agencies and authorities. This may include taking enforcement action in respect of drivers and vehicles licensed by other Authorities where agreements and necessary delegations are in place.

7.2.5 The Council has an overarching Environmental Health Enforcement Policy, that will govern the way in which enforcement is carried out and any action shall be proportionate, reasonable, transparent and appropriately directed to the harm it seeks to prevent. Details on enforcement action taken may be shared with other appropriate agencies and other Council services.

7.2.6 The Council will investigate complaints received in respect of licensed and unlicensed vehicles; operators and drivers in accordance with the Council's Enforcement Policy and the Police & Criminal Evidence Act 1984.

## **7.3 Working with other bodies**

7.3.1 The Council will work with a range of other bodies in both the enforcement of the licensing regime and sharing knowledge about licensed drivers and applicants.

7.3.2 The local Police may be consulted about individual licence holders, applicants or general areas of concern in the Borough and in relation to enforcement operations carried out. Actions taken in respect to Public Safety will be notified to the Police.

7.3.3 The Council shall consult other licensing authorities where an applicant has disclosed that they have previously been licensed by that authority or where that authority makes an enquiry of the Council about an individual who has applied for a licence with them.

- 7.3.4 The Council shall use and check the NR3 Register to ascertain if an individual has been subject to enforcement action by another authority and to record the suspensions, revocations or refusals made by the Council.
- 7.3.5 The Council recognises that it has a safeguarding role and will refer matters to the DBS where there is a concern that an individual is, maybe, or may in future be, working in a regulated activity and poses a risk of harm to a child or vulnerable adult, has satisfied the harm test, or has received a conviction or caution for a relevant offence. This may result in the individual being applied to the DBS Barred list.
- 7.3.6 The Council shall work with a range of other bodies, departments and organisations to effectively regulate the licensed trade or prevent harm to vulnerable people. Such organisations include the DVSA and Multi-Agency Safeguarding Hubs (MASH).

#### **7.4 Complaints about licensed drivers, operators and vehicles**

- 7.4.1 The Council recognises that the nature of the licensed trade is often misunderstood by the general public. The modernised delivery of hire vehicle services and the use of smart phone App's, larger national companies and 'cross border hiring' has contributed to this. The Council shall separately publish and take steps to bring to the attention of the local public, clear guidance about what members of the public should expect from licensed drivers, vehicles and operators licensed by the Council and how they can report complaints to the Council.
- 7.4.2 The Council will record all complaints that are made to it in respect to the holder of a licence to drive, own or operate a private hire or hackney carriage vehicle. Complaints may be made to the Council by members of the public, members of the licensed trade or by other agencies & bodies.
- 7.4.3 Upon receiving a complaint, the Licensing team will determine if it relates to a matter that it is responsible to enforce or if the complainant should be directed to another department or agency. All complaints relevant to a driver, vehicle or operator will be recorded.
- 7.4.4 Unless the matter poses an immediate risk to public safety the Council will request that the complaint is made in writing. Complainants will also be advised of any relevant process, such as the need for them to complete a witness statement or to provide evidence, the possible actions that may be taken and whether or not their details can be kept confidential.
- 7.4.5 Allegations made about the conduct of an individual will need to be formalised in writing but may be done by an Officer taking a formal statement from a complainant. Unless there is external evidence that can be provided to the Licensing team, an investigation into conduct issues where the complainant wishes to remain anonymous is likely to be limited in scope.
- 7.4.6 Complaints made to the Council that are considered frivolous, vexatious or repetitive of matters previously dealt with will not be investigated. Complainants will be advised that the matter will be recorded but not investigated. Officers will explain to them any evidence that they will need to provide for the matter to be considered further.

## **7.5 Complaints about the Service provided by a driver or operator**

- 7.5.1 The Council cannot enforce complaints that relate to the provision of private hire services. The intent of the legislation is that market forces regulate the service provision and any loss incurred by a customer has redress through the civil courts for breach of contract.
- 7.5.2 A one-off complaint alleging poor service will be recorded by the Council but is unlikely to result in any sanctions. Complainants will be advised to speak to the Operator. Repeated complaints about the same or similar issues may indicate that a licence holder is not fit and proper.

## **7.6 Complaints about the Council's Service/Officers**

- 7.6.1 Complaints about the service provided by the Council's Licensing team or its officers should be made to the Council's Customer service team under the Council's Corporate comments, complaints and compliments procedure.
- 7.6.2 If an individual is being investigated by the Council and makes a complaint about the investigating officer, the matter will be reviewed by a senior officer. Inappropriate conduct by an officer will be dealt with under the Council's separate disciplinary Policy for employees.
- 7.6.3 A complaint made about an investigating officer will not however be allowed to delay or frustrate the Council's investigation and will not ordinarily result in a change in the investigating officer. However, the senior officer may, recommend changes to the investigation or the investigating officer if that change will expediate the investigation.

## **7.7 Enforcement Actions – Drivers, Proprietors and Operators**

- 7.7.1 Drivers and operators must be "fit and proper" at all times. Vehicle proprietors must continue to be considered suitable. The requirements of this Policy that apply to the consideration of whether a new applicant should be licensed continues to apply to individuals once a licence is granted.
- 7.7.2 Before any enforcement action is taken an investigation will be carried out and a licence holder will be afforded an opportunity to address the allegation made. The conduct of the investigation considered necessary and the timescale provided to the licence holder for a response will be appropriate and proportionate to both the risk to the public, the urgency in which that risk may need to be abated and the sanction to be imposed.
- 7.7.3 In some instances, such as the non-display of a plate, the simple observation and recording of the offence by an Officer will be sufficient investigation.
- 7.7.4 Following the outcome of an investigation the Council has a range of options that it may take if an offence has been committed. The 1976 Act provides the Council with the power to suspend, revoke or refuse to renew a hackney carriage / private hire driver licence and where there is an immediate public safety risk, to do so immediately. The Council may also prosecute a licence holder where criminal offences have been committed.

- 7.7.5 Severe sanctions such as prosecution or the removal of a licence are not proportionate to some types of offences that may be committed. The Council will therefore explore a range of options, and will only impose a severe sanction if no other enforcement option is appropriate or proportionate.
- 7.7.6 In relation to allegations of a criminal or conduct nature the provisions of Appendix B apply.
- 7.7.7 The range of enforcement options that may be deemed appropriate are:
- a) Written Warnings;
  - b) Imposition of additional conditions;
  - c) Requirement to pass a further test;
  - d) Suspension;
  - e) Revocation;
  - f) Refusal to renew;
  - g) Simple Caution;
  - h) Prosecution.

## **7.8 Issuing of Warnings**

- 7.8.1 The Council may issue a warning to a licence holder but only if a warning is proportionate to the act or omission of the licence holder. Minor or technical breaches committed for the first time, or where the licence holder has significant mitigation, may be suitable to be dealt with by a warning. The Council is not obliged to issue a warning first - more serious matters may justify a more severe sanction.
- 7.8.2 All warnings will be recorded by the Council and notified to the licence holder in writing. For very trivial matters verbal advice may be provided at the discretion of an officer as opposed to a warning.
- 7.8.3 The Council would not expect to issue a second warning for the same or similar offences. A repeated breach will normally justify a different sanction to be applied.

## **7.9 Imposition of additional conditions**

- 7.9.1 In some instances, it may be appropriate for the Council to impose an additional condition on a licence.

## **7.10 Requirement to take further tests**

- 7.10.1 If the Council does not believe that an individual is fit and proper it would normally expect to revoke or suspend a licence. However, if the Council considers that there is some additional action that the licence holder could take which would provide sufficient evidence of their suitability the Council may provide them with that opportunity.

## **7.11 Suspensions and revocations**

- 7.11.1 Where the Council does not believe an individual is fit and proper that individual should not be allowed to hold a licence and it will be revoked. The Council may suspend a licence instead of revocation if it is considered that the circumstances are such that the individual would, after the suspension ends, be fit and proper



once more. For instance, if a further test was taken or documentary evidence could be shown to establish a fact.

7.11.2 If there is any doubt about whether a licence holder is fit and proper a licence will be revoked.

7.11.3 Where the Council believes that it is in the interest of public safety it may suspend or revoke immediately.

## **7.12 Refusal to Renew**

7.12.1 A Licensing Officer may decide that the most appropriate action will be not to renew a licence, for instance where the existing licence is shortly to expire and an application to renew has been made. However, if the Council are of the view that an individual is not fit and proper, the Council will not allow a driver to continue to work, regardless of whether a licence is soon to expire or not.

### **7.12.2 Caution**

7.12.3 A caution may be offered to an individual in some instances rather than prosecution. However, the Council will only consider a caution if an investigation has revealed sufficient evidence of a criminal offence and there is a realistic prospect of conviction should that evidence be presented before a Court. Cautions will not be issued in the absence of this evidence;

7.12.4 Cautions are intended to be a proportionate responses to low level offending where there has been an admission of guilt. It allows the criminal offence to be recorded without the cost and delay associated with a full criminal trial. The Council will refer to the relevant guidance note issued by the ministry of justice when deciding if a caution is suitable

## **7.13 Prosecution**

7.13.1 Prosecution will normally occur where there has been a breach of the primary legislation which has resulted in either a potential or actual risk to the public.

**7.14** Unlicensed persons or businesses will be considered for prosecution as a first course of action.

## **7.15 Vehicle Enforcement**

7.15.1 Licensed vehicles must be kept in a safe and suitable condition, in compliance with the vehicle specifications (Appendix C) and conditions (Appendix G).

7.15.2 Where a licensing officer, police constable or authorised vehicle examiner, is not satisfied that a vehicle is in a roadworthy condition (i.e. would not pass an MOT) or poses a clear risk to public safety, the vehicle licence will be suspended under section 68 of the 1976 Act. A hackney carriage may also be suspended under section 68 for non-compliance with certain requirements of the Council's bye-laws.

7.15.3 A section 68 suspension has immediate effect and will remain in place either until a Licensing Officer is satisfied that the vehicle is in a safe and roadworthy condition or a period of 2 months has elapsed. Failure to produce the vehicle to a Licensing Officer in a satisfactory condition within 2 months from the date of suspension will result in the automatic revocation of the licence.

7.15.4 Where a licensed vehicle does not comply with its licence conditions or is maintained in a manner that is not suitable for use but does not pose a public safety risk, it will normally be suspended under section 60 of the 1976 Act. This section provides the licence holder with a right of appeal to the magistrate's court within 21 days of the suspension. If the licence holder does not rectify the matter resulting in the suspension or appeal the suspension, the suspension takes effect until such time that an officer is satisfied to lift the suspension or the licence expires.

7.15.5 Section 60 also allows the Council to revoke a vehicle licence for any reasonable cause, which includes the conduct of a proprietor.

## **8.1 DELEGATIONS AND DECISIONS**

### **8.2 Full Council**

8.2.1 Determines the membership of, and (except where reserved by the Executive) delegates the Council's decision-making power to, the Licensing Committee. The full Council of elected members confirms the adoption of this Policy and fees following the recommendation of the Licensing Committee.

### **8.3 Executive**

8.3.1 Some of the Council's powers rest with the Executive – such as the power to set the table of fares for Hackney Carriages.

### **8.4 Licensing Committee**

8.4.1 To review and approve this Policy and the framework within which officers will make decisions.

8.4.2 To receive an annual update report in respect to:

- a) Hackney carriage and private hire licensing;
- b) The operation of this Policy;
- c) Overview of decisions made by Officers or sub-committees including any departures made within the exceptions set out in this Policy.
- d) Suggest or consider any amendments to Policy.

8.4.3 To consider and determine any requests to amend this Policy upon the written request of a licence holder or member of the public and where the request has been assessed by the Senior Licensing Officer or Chief Environmental Health Officers as not being frivolous, vexatious, unlawful or, due to public safety concerns, without merit.

### **8.5 Licensing Sub-Committee**

8.5.1 To be convened from the membership of the Licensing Committee to determine any application or matter referred to them by an Officer.

### **8.6 Authorised Officers**

8.6.1 For practical reasons the day-to-day functions of administering and enforcing the licensing regime in Hertsmere is carried out by Council Officers. All Officers are duly authorised under the Council's Scheme of Delegation which is supported by specific written delegations. Powers are delegated to officers by both the full Council and the Executive.

#### 8.6.2 **Chief Environmental Health Officer**

8.6.3 All powers exercised by Officers are delegated to the Chief Environmental Health Officer of the Council, who is responsible for the overall management of hackney carriage and private hire licensing in the Borough. The Chief Environmental Health Officer delegates most of these responsibilities to subordinate officers to carry out the day to day running of the service. Certain powers, such as authorising prosecutions, rest solely with this Officer.

#### 8.6.4 **Senior Licensing Officer**

8.6.5 The Senior Licensing Officer is responsible for the management of the Council's authorised Licensing Officers and ensuring the compliance with any matter specifically referred to within this Policy. The Senior Licensing Officer may consult with or refer matters to the Chief Environmental Health Officer as necessary.

#### 8.6.6 **Licensing Officer**

8.6.7 The majority of the decisions made in respect to the administration, approval, refusal and enforcement of the licences granted by the Council will be made by Licensing Officers, in accordance with the set legislative provisions and this Policy. Licensing Officers may consult with or refer matters to the Senior Licensing Officer as necessary.

8.6.8 Any power delegated to an Officer can also be exercised by that Officer's immediate line manager. Subordinate officers can only exercise the power of a senior officer if directly authorised by that senior officer.

### 8.7 **Table of delegated decisions**

8.7.1 Despite the ability for powers and responsibilities to be delegated it is important that decisions are made at an appropriate level relevant to the potential effect or consequences of that decision. These are set out in the table below.

8.7.2 Decisions in respect to individuals will be made by Officers in accordance with this Policy. Where Officers believe that there is sufficient cause for the Council to consider departing from its set Policy, or this Policy does not adequately cover the issue, the matter will be referred to a licensing sub-committee.

8.7.3 Decisions in respect to vehicles will be made by Officers in accordance with this Policy and any criteria set permitting exemptions. Any matter outside of a set exemption process or the legislative requirements that require a departure from Policy will be referred to the Licensing Committee.

8.7.4 Where a decision is required that cannot reasonably be expected to wait until the next sitting of the Licensing Committee, a decision made be made by the Chief

Environmental Health Officer and the Chair of the Licensing Committee provide that both are satisfied that there is no public safety risk or implication and the decision is in line with the general aims and objectives of this policy.

### 8.7.5 Overarching Powers Exercised by Hertsmere Borough Council

Legislative Provision	Decision	Review/ Recommendation	Adoption
N/A	Adoption / review of Hackney Carriage and Private Hire Licensing Policy;	Licensing Committee	Full Council
s.37 TPCA 1847 S.47 LG(MP)A 1976	Adoption of standard conditions applicable to Hackney Carriage Vehicles	Licensing Committee	Full Council
s.48 LG(MP)A 1976	Adoption of standard conditions applicable to Private Hire Vehicles	Licensing Committee	Full Council
S.51 LG(MP)A 1976	Adoption of standard conditions applicable to private hire drivers	Licensing Committee	Full Council
s.68 TPCA 1847	Adopting of, or amendment to, Bye-laws regulating hackney carriages;	Licensing Committee	Full Council
	Waiver of any of the above standard conditions applicable in individual cases;	Licensing sub-Committee	Licensing Committee
S.65 LG(MP)A 1976	Setting of the Hackney Carriage Table of Fares	Licensing Committee	Executive
S.16 TA 1985	Limit on Hackney Carriage numbers	Licensing Committee	Full Council
	Setting of fees payable by applicants and licence holders	Licensing Committee	Full Council
S.63 LG(MP)A 1976	Approval of the adoption of Hackney Carriage Ranks	Chief Environmental Health Officer	Executive

### 8.7.6 Decisions affecting individuals (licences to drive, operate or own licensed vehicles).

Legislative provision	Decision	In accordance with this Policy (unless referred).	Where referred
S.51 LG(MP)A 1976	To grant, renew, or refuse a licence to drive private hire vehicles.	Licensing Officer	Licensing sub-committee
S.46 TPCA 1847	To grant, or renewal, of a licence to drive Hackney carriages;	Licensing Officer	Licensing Sub-committee
S.61 LG(MP)A 1976	To suspend a licence to drive Hackney Carriages or private hire vehicles;	Senior Licensing Officer	Licensing Sub-committee
S.61 LG(MP)A 1976	To revoke a licence to drive Hackney Carriages or private hire vehicles;	Senior Licensing Officer	Licensing Sub-committee
S.61 LG(MP)A 1976	To refuse to renew a licence to drive Hackney Carriages or private hire vehicles;	Senior Licensing Officer	Licensing Sub-committee
S.61 (2B) LG(MP)A 1976	To suspend or revoke a driver licence with immediate effect;	Senior Licensing Officer in consultation with Chief Environmental Health Officer or by a licensing sub-committee upon hearing new evidence.	
S.55 LG(MP)A 1976	To grant of a private hire operators licence s.55	Licensing Officer	Licensing Sub-committee
s.62 LG(MP)A 1976	To Suspend of an operator's licence	Senior Licensing Officer	Licensing Sub-committee
s.62 LG(MP)A 1976	To revoke an operator's licence	Senior Licensing Officer	Licensing Sub-committee
s.62 LG(MP)A 1976	To refuse to renew an operator licence	Senior Licensing Officer	Licensing Sub-committee

s.57 LG(MP)A 1976	To request further information in respect to an application not stated in this Policy;	Licensing Officer	Licensing Sub-committee
s.48 LG(MP)A 1976; S.37 TPCA 1847 S.47 LG(MP)A 1976	To grant or refuse an application for, or revoke, a hackney carriage or private hire vehicle licence based on the suitability of the individual applicant	Senior Licensing Officer	Licensing Sub-committee
S.51 / 55 / 56/ 57/ 61/ 62 LG(MP)A 1976; S.46 TPCA 1847;	Decision to impose additional conditions;	Senior Licensing Officer	Licensing Sub-committee
S.51 / 55 / 56/ 57/ 61/ 62 LG(MP)A 1976; S.46 TPCA 1847;	Decision to require a licence holder to carry out some act or performance, such as the undertaking of a test, etc. to confirm their suitability to hold a licence;	Senior Licensing Officer	Licensing Sub-committee

### 8.7.7 Decisions in respect to the licensing of Vehicles

Legislative provision	Decision	If in accordance with Policy, unless referred	Where exemption exists or referred
s.48 LG(MP)A 1976	To grant an application for private hire vehicle licence	Licensing Officer	Senior Licensing Officer
s.37TPCA 1847 S.47 LG(MP)A 1976	To grant an application for a Hackney Carriage vehicle licence	Licensing Officer	Senior Licensing Officer
S.50 LG(MP)A 1976	To require a licensed vehicle to attend for a mechanical test.	Licensing Officer	Senior Licensing Officer
S.60 LG(MP)A 1976	To refuse an application for a Hackney Carriage vehicle licence (new or renewal);	Licensing Officer	Senior Licensing Officer
S.60 LG(MP)A 1976	To refuse an application for Private Hire Vehicle Licence (new or renewal);	Licensing Officer	Senior Licensing Officer
S.60 LG(MP)A 1976	To suspend a vehicle licence under section 60.	Licensing Officer	Senior Licensing Officer
S.60 LG(MP)A 1976	To revoke a vehicle licence under section 60.	Licensing Officer	Senior Licensing Officer
S.68 LG(MP)A 1976	To suspend a vehicle licence under section 68;	Licensing Officer	Senior Licensing Officer
Section 75(3) LG(MP)A 1976	To grant, or refuse, an exemption to a private hire vehicle proprietor to not display the vehicles licence plate	Licensing Officer	Senior Licensing Officer

### 8.7.8 Discretionary decision in respect to enforcement

Decision	Recommended by	Authorised by
Decision to investigate;	Licensing Officer	Senior Licensing Officer
Decision to issue a warning	Licensing Officer	Senior Licensing Officer
Decision to prosecute;	Senior Licensing Officer	Chief Environmental Health Officer
Decision to issue a caution;	Senior Licensing Officer	Chief Environmental Health Officer

LG(MP) A 1976 refers to the Local Government (Miscellaneous Provisions) Act 1976; TPCA 1847 refers to the Town Police Clauses Act 1847; TA 1985 refers to the Transport Act 1985

## 8.8 Appeals

8.8.1 The Council's decisions in respect to the grant or refusal of an application for a licence, the imposition of conditions on a licence, or the suspension or revocation of

a licence is final. There is no provision for an appeal in respect to a decision to suspend a vehicle under section 68 of the 1976 Act..

- 8.8.2 Any person aggrieved by such a decision shall have the right to appeal to the Magistrates Court (or in the case of a Hackney Carriage proprietors' licence, the Crown Court).
- 8.8.3 There is no provision for an internal appeal against any decision made by the Council or the decision by the Council to investigate or take enforcement action in respect to any matter (except where provided by statute). If an individual believes that there has been improper conduct by an officer in respect to any decision or enforcement action taken a complaint can be made to the Council via its corporate complaint's procedure.
- 8.8.4 The making of a corporate complaint will be investigated separately in line with the Council's complaint procedure and shall not stay any decision or enforcement action taken. An individual should remain aware of their statutory right to appeal.

## **9.1 FEES**

- 9.1.1 The Council is permitted to charge such fees as it considers reasonable to cover the cost of the issue and administration of the licences granted by the Council and the supervision of the activities of private hire and hackney carriage vehicles.
- 9.1.2 The Council aims for full cost recovery in the calculation of its fees but also seeks to apportion its cost fairly. The structure of the council's fees will endeavour to ensure that the cost of the Council's service is borne by those who use it and benefit from it. Where additional or ancillary applications or request are made to the Council, it is right that those making such request pay the cost, rather than it being apportioned to the trade as a whole. For this reason the Council will charge for replacement licences, plates or badges or applications for discretionary matters.
- 9.1.3 The fee structure will be reviewed annually as part of the Council's budgetary process. The setting of these fees is the responsibility of the Chief Environmental Health Officer but for reasons of transparency may be done following a report to the Licensing Committee. When setting its fees shall take into account the relevant government guidance and case law.
- 9.1.4 Fee's will be monitored over a rolling period of 3 years in order for any surpluses or losses to be taken into account and the relevant adjustment to the fees made.
- 9.1.5 The fees currently payable will be set out on the Council's website.

## **9.2 Payment of Fees**

- 9.2.1 Where any fee is required to be paid in support of an application, the application will not be deemed valid until payment is received or, in respect to cheques, cleared. Applicants are responsible for ensuring that payment is made in good time to ensure licences are granted where needed.
- 9.2.2 Cheques, postal orders and cash may be accepted by the Council whilst the facility to do so remains but the Council prefers, and recommends, payment to be made

via its online facility. The Council reserves the right to move towards an entirely online process in the future.

- 9.2.3 The use of some payment methods may result in additional merchant charges (i.e. use of credit card).

### **9.3 Refunds**

- 9.3.1 All fees shall be calculated to make clear what cost is attributable to the administration and approval of a licence and what cost is attributable to compliance and enforcement.
- 9.3.2 No refund of the Councils administration charges will be made where an application has been refused. Where an application fee also includes a charge that would be attributable to the compliance or enforcement of throughout the duration of the licence, should it have been granted, that fee will be refunded.
- 9.3.3 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.
- 9.3.4 Applicants that fail a knowledge test will not have their test fee refunded. Applicants will be permitted to re-sit the test on 2 occasions provided they pay the relevant resit fee. If an applicant is unable to attend a test their fee will not be refunded but they shall be able to book to take the test on another occasion provided more than 24 hours notice is given. Where an applicant fails to cancel or gives less than 24 hours notice their fee will be forfeited in order to cover the Council's cost in making the test available. A new fee will be required for any further re-sit.

## **10 Safeguarding and Equalities**

### **10.1 Safeguarding**

- 10.1.1 The private hire and hackney carriage trade provide a service that can play an integral and important part in peoples lives. They provide a convenient and cost-effective option for individuals to visit or socialise with their family and friends and provide access to a range of other services that benefit the local and national economy. It is also recognised that for those who cannot drive – whether due to choice, cost or a disability – licensed vehicles can be a necessity.
- 10.1.2 In recent times concerns have been raised about the conduct of licensed drivers in parts of the UK which resulted in the targeting and abuse of children, young persons and other vulnerable people.
- 10.1.3 “Taxis” can also be used as part of criminal operations without the knowledge or connivance of the driver or operator. Children may be transported between hotels, pubs and other places where they are exploited or used to deliver drugs and other contraband.
- 10.1.4** The Council, recognises that the hackney carriage and private hire trade can be targeted to provide convenient cover for individuals to commit criminal acts that can devastate the lives of young and vulnerable people. This can cause lasting reputational damage to all those who hold licences and provide a valuable service to the local community.

- 10.1.5** It is recognised that the majority of licensed drivers are indeed “fit and proper” individuals who do not carry out criminal acts nor wish to be associated with them. The Council wishes for its licensed trade to be respected and trusted by the people it serves and not have their reputation tarnished by the criminal acts of others.
- 10.1.6 The Council believes that it is important for it to work together with its licence holders to ensure that safeguarding issues are reported. The Council has a safeguarding duty which, in relation to its licensing role, can only be observed with the cooperation and support of its licence holders. The Council therefore imposes a safeguarding duty on all licence holders.
- 10.1.7 Licensed drivers are required to undertake basic safeguarding training and new applicants will not be granted a licence until this is done. Where there is a sufficient reason, the Council may require any licensed individual to take or re-take this training or any further safeguarding training. The Licensing Committee may also further consider amendments to this training or the wider application of this training to those working in the licensed trade.

## **10.2 Safeguarding Duty**

- 10.2.1 All drivers must apply the training they receive and report any suspicion or concerns that they may have, that a child, young person or other vulnerable person may be at risk of being sexually, physically or emotionally exploited or abused or being used to facilitate criminal offences.
- 10.2.2 This duty also requires Licence holders to report to the Council any arrest and release, charge, conviction or caution of any sexual offence, motoring offence, violent offence or dishonesty offence within 48 hours of its occurrence. Appendix B categorises the type of offences under these headings.
- 10.2.3 The Council may provide further documentation to the Licensed trade to assist them in recognising the signs of a safeguarding concern or other local intelligence separately to this Policy.

## **10.3 Additional safeguarding issues**

- 10.3.1 The nature of a licence holders’ job is such that there will be occasions where they come into contact with individuals or in situations where an individual may be at risk or could reasonably be foreseen to be at risk.
- 10.3.2 Hackney Carriage drivers cannot refuse a fare and it should not normally be the case that private hire drivers do so either once booked. However, in some instances for instant if the potential passenger is being abusive or violent, it would be unreasonable for the Council to expect a driver to subject themselves to that, and may therefore use its discretion not to take enforcement action against a driver in such a situation.
- 10.3.3 Before any refusal occurs drivers must consider the situation that the individual will be left in, and the foreseeable consequences of that. Passengers should not be left alone in any condition in which they are vulnerable, incapacitated or incapable of looking after themselves or in any location where they may not be able to find a place of safety. Individuals left alone in such circumstances could be taken



advantage of by another person, could injure themselves, develop health complications or die.

10.3.4 A licensed driver should therefore take steps to ensure that the passenger either arrives safely at their home, calls an ambulance or arranges appropriate assistance. A record should be made of the situation by the driver or operator. A private hire driver must contact their private hire operator before any refusal occurs as the contract is between the passenger and the operator and the driver cannot unilaterally terminate it. This provides an opportunity for the situation to be recorded and for the operator to support the driver.

10.3.5 As part of the Licensed Operators safeguarding duty the operator should have measures in place to monitor and record refusals by drivers.

## 10.4 **Equalities**

10.4.1 The Equality Act 2010 imposes 3 duties on the Council.

- (1) Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act
- (2) Advance equality of opportunity between people who share a protected characteristic and people who do not share it.
- (3) Foster good relations between people who share a protected characteristic and people who do not share it.

10.4.2 The Council has separate policies and initiatives related to the wider aspect of ensuring social inclusion and opportunities for all its residents and visitors to the Borough. The licensing of private hire and hackney carriage vehicles is not the primary method of the Council complying with, and delivering, these duties but the Council must consider how its private hire and hackney carriage licensing policy may contribute to the wider duty imposed.

10.4.3 Those who chose to provide one of the services regulated by this Policy, whether as hackney carriage driver, private hire driver or private hire operator, are expected to provide that service to all members of society and cannot pick and choose for their own convenience or based on their own prejudices. Those who do not comply with the legislative duties of the Equality Act 2010, or the Council conditions will be subject to enforcement action.

10.4.4 The Council will not base any decision on whether or not to licence, or to take enforcement action against, any individual on the basis of a protected characteristic. Likewise, it does not expect any licence holder to choose not to provide their service to anyone on the basis of a protected characteristic. Further, the Council does not expect any licence holder to be subject to any discrimination based on a protected characteristic.

## 10.5 **Accessibility**

10.5.1 The predominant area where the Equality Act 2010 influences the licence trade is in respect to providing accessible transport and the Council considers it important that people with disabilities have access to all forms of public transportation.

- 10.5.2 Different considerations apply to hackney carriages than private hire vehicles. Hackney carriages can be hired immediately in the street or at a rank by any person and it would not be reasonable, nor compliant with the Council's Equality duty, for it to permit vehicles to be used that discriminate against some passengers due to a disability.
- 10.5.3 The Council will only licence purpose built, wheelchair accessible vehicles as hackney carriages to ply for hire in the Borough.
- 10.5.4 Private hire vehicles, however, must only be booked through an operator who can provide a suitable vehicle to fulfil the booking. The duty not to discriminate rests on the operator who, as transport service provider, has their own duty under the Equality Act 2010. Operators are responsible for ensuring that they have a sufficient number of accessible vehicles to meet demand.
- 10.5.5 Whilst the Council does not have the power to take action against an Operator for breaching their duty it will encourage, and where possible support, complainants taking separate legal action. Nonetheless, a service provider that is evidenced to have discriminated on the grounds of a protected characteristic may be considered by the Council to no longer be Fit and Proper to hold a licence.
- 10.5.6 The Council encourages all private hire operators to include sufficient numbers of wheelchair accessible vehicles amongst their fleet and to take such steps to advertise that these vehicles are available through them and that there is no additional cost that can be levied by them or their driver for the conveying of a passenger in a wheelchair or any other disabled passenger.
- 10.5.7 The Council will however monitor the provision of wheelchair accessible vehicles and shall, if deemed insufficient, consider imposing further requirements on operators, drivers and proprietors of vehicles to ensure the sufficiency of the provision.

## **10.6 Licensed drivers' duties and exemptions**

- 10.6.1 The Equality Act 2010 places statutory duties on a driver of a wheelchair accessible vehicle (WAV) provide that it has been 'designated' by the Council under section 167 of the Act. For the avoidance of doubt, any wheelchair accessible vehicle licensed by the Council will be designated under section 167, the details of the vehicle published on the Council website and the Equality Act duties shall apply.
- 10.6.2 The driver of a designated WAV must comply with the following duties:
- (1) to carry a passenger while in the wheelchair;
  - (2) not to make any additional charge for doing so;
  - (3) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
  - (4) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
  - (5) to give the passenger such mobility assistance as is reasonably required.
- 10.6.3 The Council is aware that a number of wheelchair users can travel in vehicles that are not a purpose built WAV, by being seated in a passenger seat in a vehicle and requiring the driver of the vehicle to simply fold and carry the wheelchair.

- 10.6.4 The Council could designate all vehicles under section 167 so that the duties listed at number 3,4,5 in paragraph 10.33 apply. It is considered that doing this would be unnecessary as it may result in confusion to customers who require a purpose built WAV and there is no evidence that drivers in the Borough do not do this. However, where there is any evidence that drivers of vehicles that are not designated but can take a passenger in a wheelchair refuse to do so, the Council may revise its Policy or separately designate any vehicle as part of its enforcement sanctions.
- 10.6.5 The duties in 3,4,5 in paragraph 10.33 shall instead form part of the Council's code of conduct and licence conditions.
- 10.6.6 The Equality Act 2010 also places a duty on all licensed drivers to carry passengers with an assistance dog, allow the dog to remain with the passenger and not to make any extra charge for doing so.

## **10.7 Medical Exemption Certificates - WAV**

- 10.7.1 Drivers of a designated WAV may apply to the Council for an exemption from this the statutory duties imposed on:
- (1) medical grounds, or
  - (2) the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with their duties.
- 10.7.2 The licensed driver must provide medical evidence to satisfy the Council of the above. Given the general requirements of a licensed driver, the Council must also consider if the inability to comply with these statutory duties, also mean that a driver is unable to comply with the overall medical standards that the Council has.
- 10.7.3 The licensed driver would, at least, need to provide evidence from their GP. However it is likely specialist advice would be needed to establish that a licence holder is still medically fit to drive a WAV and collect non-wheelchair passengers but not passengers in a wheelchair.

## **10.8 Medical Exemption Certificates – Assistance Dogs**

- 10.8.1 A licensed driver may apply to the Council for an exemption from the duty to carry an assistance dog on medical grounds. The term “medical grounds” is not further defined and the Council does not consider it necessary to specify a limit to the grounds that may be applied for.
- 10.8.2 The Council needs to be satisfied that the medical grounds are sufficient to justify granting the exemption. A letter from a GP without further proof will not be sufficient, and will need to be supported by either a blood test (in the case of an allergy), psychiatrist or clinical psychologist report (in relation to a phobia) or a comprehensive medical history of any other condition that may exacerbated by an allergy to a dog (i.e. asthmatic or breathing related conditions).
- 10.8.3 However, the Equality Act requires the Council to have regard, in particular, to the physical characteristics of the vehicle that the person drives or the type of vehicle the exemption may be required for. The Council will also consider the likely result and impact of the medical grounds should the driver be faced with carrying a Dog. An exemption may be granted specific to a type of vehicle. For instance a driver

who is allergic to a dog may not be granted an exemption if the vehicle used has a safety screen between the driver and a passenger whereas a driver who has a clinical fear of dogs may not be able to drive, even with such a barrier.

## **10.9 Medical Exemption Certificates – Suitable medical professionals**

- 10.9.1 Most drivers with a medical condition severe enough to warrant an exemption are likely to be under a specialist / consultant medical practitioner and should have no difficulty providing the relevant evidence.
- 10.9.2 In exceptional circumstances, where no other alternatives are available, the Council may consider evidence solely from the applicant's General Practitioner or the Council may request an independent examination by a Council nominated or appointed Doctor.
- 10.9.3 The applicant will be responsible for all costs associated in the provision of the necessary medical evidence and may be required to pay the reasonable costs of the Council in considering and determining an application for an exemption.

## **11 Whistleblowing and Data Protection**

### **11.1 Whistleblowing**

- 11.1.1 All regulators, including the Licensing team, must act with integrity at all times and the Council, when adopting this Policy, is reiterating that expectation of its Licensing team.
- 11.1.2 Whistleblowing is the term given to the act of an employee or similar individual reporting and providing information about alleged wrongdoing – such as criminal offences, acts which put someone's safety at risk, or the covering up of such activities. Hertsmere Borough Council has a "Whistleblowing Policy" for all its staff, including those in the Licensing team, to follow, and to ensure that those who report such concerns are able to do so without fear of reprisals.
- 11.1.3 Every Officer of the Council, including those in the Licensing team, are aware of the Council's whistleblowing policy and are encouraged to report any concerns about unlawful conduct, financial malpractice or dangers to the public or the environment arising from the action, inaction or decisions made by the Council.
- 11.1.4 Whilst Officers are expected to comply with the Council's Whistleblowing Policy, it does not apply to those not employed by the Council, including those licensed by the Council or members of the public who may be affected.
- 11.1.5 The Council does not wish for any of the devastating cases of CSAE that occurred in some boroughs in the UK, or any other organised endangerment of people, to occur in the Borough of Hertsmere. It is therefore imperative that all those affected by conduct of the licensing team, licence holders or the general activity of the regulated trade, have an avenue in which to report cases of concern.
- 11.1.6 The Council wishes to ensure that there is a clear distinction between a complaint about an individual licence holder that may be made and investigated by the Licensing Team, an appeal against the refusal or revocation of a licence that which should be appealed to the magistrates court and

11.1.7 All concerns should be reported to the Licensing Team in the first instance and the Council's complaint procedure used where an individual is not satisfied with the outcome to their complaint.

## **11.2 Data Protection**

11.2.1 All personal data supplied to the Council as part of an application is necessary for the Council to use in order or to determine the application that has been made.

11.2.2 Where a licence is granted, all information provided remains of relevance to ensure that the Council can exercise its statutory functions and shall be retained until such time as the licence expires. If the licence is renewed, or further licences are held, the information shall be retained until such time as the renewed licence or any other licence, is no longer held.

11.2.3 Information provided as part of an application that is not determined or refused or held in respect to an expired licence or expired licences shall be kept in accordance with the Council's data protection retention schedules and kept no longer than necessary.

11.2.4 Some details relating to licence holder shall be retained on the Council system. The name, address and date of birth of an application will be retained where a licence is refused or revoked. This is to enable the Council to ensure that any person previously licensed who has posed a threat to the public is not able to re-apply for a licence without that information being considered by the Council.

11.2.5 Such data shall also be held where it is provided as part of a national register used by all licensing authorities for the monitoring of those who apply for taxi licences.

11.2.6 A full privacy statement shall be published by the Licensing team and applicants will be required to consent to the use of their data in the manner deemed necessary by the Council for the purposes of public safety. Where no consent is given an application cannot be granted.

11.2.7 An applicant or licence holder may request, through the Council's Data Protection Officer, all data held by the Council's Licensing team.

## **APPENDIX A**

### **APPLICATION PROCEDURES**

Applications for a licence are required to be made to the Council in line with the process below. These set out what applicants must do and what they must provide to the Council in order for a decision to be made. The intention of these procedures is to provide an applicant with the appropriate process for establishing themselves as fit and proper in line with the Council's requirements set out in part 4 of this Policy.

## **1. PRIVATE HIRE / HACKNEY CARRIAGE DRIVER LICENCES**

1.1.1 Applications for hackney carriage or private hire driver licences are subject to the requirements of Section 4 of this Policy.

1.1.2 Applications are to be made on the Council's prescribed application form found at [www.hertsmere.gov.uk](http://www.hertsmere.gov.uk) or in accordance with any online procedure that may be specified for the purpose.

1.1.3 A completed application form must be submitted to the Council with the following documentation:

- 1) Identification documents;
- 2) 2 passport-sized photographs of the applicant;
- 3) DVLA driving licence and DVLA shared driving code;
- 4) Enhanced DBS disclosure;
- 5) Certificate of good conduct (if applicable);
- 6) Medical certificate;
- 7) Training Certificate;
- 8) Knowledge test pass certificate;
- 9) Advanced Taxi driving test pass certificate;
- 10) Evidence of tax registration or declaration to register

1.1.4 The application fee must be paid at the time of submission. An application made without the fee is not valid.

1.1.5 The Council will only consider and determine an application once it has been fully completed. Incomplete applications will be returned.

1.1.6 The Council may, at its discretion accept substantially completed applications and allow an applicant to provide additional documentation within one calendar month of the original submission. The failure to complete an application within one calendar month will result in the documents presented to the Council being out of date and the application will be deemed as insufficient to enable the Council to make a determination and returned to the applicant.

## **1.2 Identification documentation**

1.2.1 The Council must be satisfied of the identify of an individual to ensure its checks reveal the correct information. This documentation will also allow the Council to carry out the appropriate right to work check.

1.2.2 The production of a British or EU Passport, UK Driving licence and up to date utility bill will be the most efficient way to prove an applicant's identify. However, where those documents are not held by the applicant a range of other documents may be provided such as: birth, marriage or adoption certificates, national identity card issued to an EEA or Swiss national or a restricted immigration document.

1.2.3 Restricted immigration documents include residence cards, endorsed passport or biometric immigration documents.

1.2.4 The Council will maintain a full list of the acceptable documents as found on the gov.uk website, which may be updated from time to time. This list can be found at

appendix L or provided on request. Additionally, an applicant may choose, or be requested to use, the Home Office online service allowing them to share their right to work status with the Council.

- 1.2.5 Where satisfied that there is no risk of fraud and it is accurate, the Council may permit, or use, an independent identity verification service for the purposes of establishing an applicant's identity.

### **1.3 Passport photographs**

- 1.3.1 The applicant must submit at least 2 passport photographs. The photographs must be taken against a pale background and clearly show the applicants head, face and shoulders.
- 1.3.2 No hats, headwear or glasses may be worn unless the headwear is normally worn by the applicant for the purposes of their religion or glasses are normally worn for a purpose prescribed by an optician.
- 1.3.3 The photographs may be provided by electronic means and do not need to have been taken via a passport photo booth provided they meet the requirements of the Council. The photo shall form part of the drivers badge and should be recent so as to reasonably reflect the applicant's features and be professional in the depiction of the applicant.

### **1.4 Driving licence**

- 1.4.1 Applicants will need to provide evidence that they hold a driving licence and have been qualified to drive for at least 3 years. This can be done by providing either a:
- a) UK DVLA driving licence issued under Section 97 of the Road Traffic Act 1988 (as amended)
  - b) A licence issued by a country designated as equivalent to a UK licence.
- 1.4.2 Where a non-UK licence is produced this will be assessed in line with the Council's Policy and reference to any government guidance.

### **1.5 Driving History check - Penalties and Endorsements**

- 1.5.1 Applicants will be required to use the 'View Driving Licence Service' of the gov.uk website to allow the Council to check their endorsements. This code can be provided when completing the Council application form.
- 1.5.2 If an applicant is unable to use this service to provide the details needed by the Council they may be provided with an alternative option that they will need to pay for, such as the completion of a DVLA mandate.
- 1.5.3 If an applicant has not been in the UK for 3 years, or they do not hold a UK licence they will be expected to provide evidence from any other country they have resided in for more than 6 months in that 3-year period as to their driving standard. This information may be shown on a certificate of good conduct.
- 1.5.4 Endorsements revealed via the driving licence check will be considered in line with the Council's Policy at appendix B.

### **1.6 Disclosure and Barring Service (DBS)**

- 1.6.1 Applicants will be required to apply for an enhanced DBS certificate through an online system operated by a third party nominated for such purpose by the

Council. Only a system approved by the Council can be used – DBS certificates obtained through any other means will not be accepted.

- 1.6.2 Where the Council (or its nominated third party) has previously carried out a DBS check an applicant will not need to apply for a further check if they have registered for the DBS update service.
- 1.6.3 The applicant is responsible for the cost of the enhanced DBS check and any additional fees required for their identify to be verified by that party, the Council or another organisation.
- 1.6.4 A DBS will only be considered valid and acceptable if produced to the Council within 1 calendar month of it being issued. This is so that the information provided on that DBS certificate is as contemporaneous as possible.
- 1.6.5 The DBS must display the home address of the applicant that the applicant has stated on their application form.
- 1.6.6 The applicant must also provide evidence that they have registered with the DBS update service.
- 1.6.7 The applicant must agree to notify the Council of any convictions, cautions, endorsements, allegations, official police warnings, charges or grants of bail after the submission of the application.

## **1.7 Medical Certificate**

- 1.7.1 The applicant must undergo a DVLA group 2 medical examination medical examination conducted by their registered general practitioner. The applicant is responsible for paying any fee the surgery may request and ensuring that the GP completes the form correctly.
- 1.7.2 Once a medical certificate is passed, the applicant must provide it to the Council within 1 calendar month of it being completed.

## **1.8 Driver Training and Knowledge Test**

- 1.8.1 New applicants will be required to attend a training regime set by the Council and to subsequently pass a knowledge test. The successful completion of these will satisfy the Council that an applicant has the appropriate knowledge and understanding of the responsibilities of their role and the needs of their customers.
- 1.8.2 The training may take the form of a one day course or several modules that can be completed at different times and may be delivered in person or via online video links.
- 1.8.3 The training will cover issues such as:
  - Safeguarding awareness (relating to both adults and Children);
  - Child Sexual Exploitation awareness;
  - Disability awareness;
  - Customer care / customer awareness;
  - Rules and regulations applicable to licensed drivers;
  - Road Safety;
  - Driver safety,
  - Vehicle maintenance.
- 1.8.4 The knowledge test will consist of the following:



- The district of Hertsmere
- The routes to and from places of notable interest both locally and nationally;
- The Council's Policy, Licensing Conditions and the law governing licence holders;
- Highway Code;
- Basic mathematics.

1.8.5 Each module will only need to be passed once. If an applicant fails, they will need to take a re-test, but only of the sections previously failed.

1.8.6 Information about how to book the relevant training and pay the fee will be available on the Council website or from the Licensing team.

## **1.9 Driving Test**

1.9.1 All new applicants for a hackney carriage and/or private driver licence must pass a relevant driving assessment designed for those who drive Hackney Carriage and Private Hire vehicles.

1.9.2 The test required is modelled on that previously provided by the DVSA and will be provided by such third-party organisations as approved by the council.

1.9.3 Drivers who intend to drive a wheel chair accessible vehicle will be required to pass the enhanced wheelchair assessment. Only a licensed driver who has passed this assessment may drive a licensed wheelchair accessible vehicle.

1.9.4 A licence will not be granted to an applicant unless the pass certificate is produced to a licensing officer to form part of the application criteria.

1.9.5 Information about how to book the relevant test and pay the fee will be available on the Council website.

## **1.10 Tax registration**

1.10.1 First time applicants shall be required to confirm that they have read and understood any information provided to them about registering to pay tax.

1.10.2 Applicants renewing a licence must provide evidence that they have registered for tax.

## **2 PRIVATE HIRE & HACKNEY CARRIAGE VEHICLE LICENCES**

### **2.1 Applications**

2.1.1 Applications will need to be made on the Council's application prescribed for the purpose of making the relevant vehicle application and submitted to the Council along with the following documents:

- a) **MOT CERTIFICATE:**
- b) **CERTIFICATE OF COMPLIANCE:**
- c) **VEHICLE REGISTRATION DOCUMENT:**
- d) **INSURANCE CERTIFICATE:**
- e) **TAXIMETER CERTIFICATE OF CALIBRATION:**

2.1.2 Applications must be made in respect to a vehicle that meets the Council's requirements set out in its Policy as detailed in appendix C and be capable of meeting all the conditional requirements.

## **2.2 The Applicant**

2.2.1 The applicant for a vehicle licence may be an individual, more than one individual, a partnership or a company. Where the applicant is more than one individual or is its own legal entity (for example a company, partnership, or other organisation) the requirements of this part that apply to individuals should be read as applying to all individuals forming that entity, the partners or directors, and the term 'applicant' or 'proprietor' should be construed as referring to each individual, partner or director where appropriate.

2.2.2 The Council's preference is that a licence would be held by an individual proprietor. However, it is necessary that any application is accurate as to the ownership of the vehicle and the control over the use that vehicle is put to.

2.2.3 If the applicant does not already hold a licence with the Council or has not previously established their identity the Council will require them to evidence their identity in line with 1.2 above.

2.2.4 The applicant must provide a basic criminal record disclosure unless they are already licensed by the Council as a driver or operator and the Council continue to have the means to be able to assess their suitability.

## **2.3 Mot certificate**

2.3.1 This must be from a council nominated garage and include an emission test certificate and must be no older than 14 days from the date of test when presented to the Council.

2.3.2 This document shall establish that the vehicle is roadworthy and suitable to be driven on UK roads.

2.3.3 A new vehicle licence will not be issued if there are any advisories on an MOT. The vehicle shall be repaired and a new MOT certificate presented confirming the items are fixed.

2.3.4 The Council may check the MOT and tax status of a vehicle online at any time prior to granting a licence or whilst licensed.

2.3.5 Where required, the proprietor will agree to carry out a second MOT within 6 months from the date their licence is granted.

## **2.4 Certificate of compliance**

2.4.1 This must be from the Council's nominated garage and must be no older than 14 days from the date of test.

2.4.2 This certificate must confirm that all aspects of the vehicle comply with the Council's policy and conditions. If not, the applicant must fix any issues and either

present a new certificate of compliance or, where the matter can be assessed by an officer, present the vehicle to a Licensing officer for approval.

## **2.5 Vehicle registration document (v5c)**

- 2.5.1 This must show the applicant as the registered keeper, either wholly or jointly with any other person(s) hereinafter described as proprietor(s);
- 2.5.2 This will be checked by Council officers to ensure that the details correctly match the vehicle proposed, including colour, VIN number, passengers and to verify if any modifications have been made to the vehicle.

## **2.6 Insurance certificate**

- 2.6.1 This must be for the correct activity applied for (public hire or private hire) and only drivers licensed by Hertsmere Borough Council should be named on the policy.
- 2.6.2 Where a temporary cover note is produced a full certificate must be produced once received and no later than one month after the grant of a licence.
- 2.6.3 Licence holders must show continuous insurance cover and where monthly insurance is in place, or a policy expires, the licence holder is responsible for providing the updated certificate on, or the following, the day of expiry. Failure to do so will result in the suspension of a vehicle.

## **2.7 Taximeter certificate of calibration – Hackney Carriage only**

- 2.7.1 Required for all Hackney Carriage vehicles. This must confirm that the meter has been calibrated to the Council's table of fares and sealed.

## **2.8 Submission of an application**

- 2.8.1 Completed applications must be received at least 5 working days before the date which the licence is required by the applicant to start. The application must be submitted on the Council's prescribed application form by hand, post or, if approved by a licensing officer any electronic means such as e-mail. Where available the Council may direct all applications to be submitted via an online or electronic process.
- 2.8.2 A licensing officer may require the applicant to attend the Council offices with the vehicle prior to making a decision on the application. The licence and its conditions will be issued to the driver along with an internal and external licence plate which must be displayed in accordance with the licence conditions.
- 2.8.3 After an application has been submitted, it will be processed by the Council. If approved, a licensing officer will contact the applicant to arrange an appointment time to provide the applicant with the licence, plate, return any original documents to the applicant, remove any old plate(s) and to check the vehicle.

## **3 PRIVATE HIRE OPERATORS**

- 3.1.1 Applications will need to be made on the Council's application form prescribed for the purpose of applying to be a private hire operator. Completed applications may be submitted by hand, post or, if approved by a licensing officer any electronic means such as e-mail. Where available the Council may direct all applications to be submitted via an online or electronic process.
- 3.1.2 Where the applicant is more than one individual or is its own legal entity (for example a company, partnership, or other organisation) the requirements of this part that apply to individuals should be read as applying to all individuals forming that entity, the partners or directors, and the term 'applicant' should be construed as referring to each individual, partner or director where appropriate.
- 3.1.3 New applicants who are not also Hertsmere licensed drivers will be required to provide relevant documents confirming their identity and right to work and that they are correctly registered to pay Tax in the UK.

### **3.2 Evidence of Criminal Record**

- 3.2.1 A criminal record disclosure must be provided by the applicant. If the applicant is a company, partnership etc. a criminal record disclosure must be provided for each partner or director. Where a large company is involved, the Council may only require criminal record checks from those directors or managers with an operational involvement in ensuring compliance with the relevant applicable legislation. The applicant will need to satisfy the Council of this.
- 3.2.2 Where the applicant is a Hertsmere licensed driver a further criminal record check may not be necessary. The Council has the discretion to insist on a further criminal record check at any time for either an operator or driver.
- 3.2.3 Where a licence is granted, the Operator must inform the Council of any change in owner, partner, director etc. and the Council will require a criminal record check of that new owner, partner, director etc.
- 3.2.4 The applicant will be required to agree to notify the Council of any convictions, cautions, endorsements, allegations, official police warnings, charges or grants of bail after the submission of the application and until the application is determined.

### **3.3 Additional matters**

- 3.3.1 Applicants must declare any bankruptcy, disqualification of directorship or prosecutions resulting from previous trading activities.
- 3.3.2 Company applicants must declare any insolvency of the applicant, or previous companies in which the directors of the current applicant have been involved in; the disqualification of any directors, or any prosecutions or cautions against the company, or any previous company that any director has been involved with.
- 3.3.3 Applicants must provide confirmation that their operating address either has or does not need planning permission for the proposed business.
- 3.3.4 Where the Operator has an office which members of the public may attend or wait at, the Operator must produce an appropriate public liability insurance certificate.
- 3.3.5 The applicant will be expected to state the number of vehicles they wish to operate and shall be conditioned to this number. Additional numbers may licensed by a variation application.

- 3.3.6 Where the applicant intends to licence a number of vehicles in its own name the Council may require the applicant to agree to a set arrangement for the testing and re-licensing of those vehicles.
- 3.3.7 The applicant will be requested to confirm that they have in place (and may be required to produce):
- A data protection policy or statement confirming how customer data is stored;
  - A criminal record policy setting out the applicants approach assessing the suitability of booking/despatch staff employed by them;
  - A list of all booking/despatch staff employed them;
  - Confirmation that all staff employed have had their right to work entitlement checked;
  - A Complaint's procedure;
- 3.3.8 The applicant will be expected to confirm that they are registered to pay tax.
- 3.3.9 New applicants for an operator's licence will be requested to sit a knowledge test designed for private hire operators to ensure that they understand the legal requirements relating to the operation of private hire vehicles.

#### **4 Applications General Provisions**

- 4.1.1 Applications will be required to be made in such manner as the Council prescribe. The Council's intention is to conduct as much of the process as it can online and minimise unnecessary trips to the Council Offices. However, it recognises that the interests of public safety may require some stages of application processes to be completed in person.
- 4.1.2 All applications, including those for any discretionary exemption outlined in the Council's Policy, must be made in writing by any process that the Council may reasonably stipulate for the purpose.
- 4.1.3 Any application fee required must be paid prior to the Council determining any application.
- 4.1.4 Incomplete applications cannot be determined and will be returned to the applicant.
- 4.1.5 Except where the payment of an application fee also includes a contribution to the Council's enforcements costs application fees will not be refunded.
- 4.1.6 An applicant is responsible for providing to the Council any document, certificate, examination or similar set out in this Policy within the required timescales stated. Where an applicant fails to provide a document within the required timescales their application will not be granted and the applicant responsible for organisation and payment of any newly issued document that meets the Council's requirements.
- 4.1.7 The Council is not liable for any additional expenditure incurred by an applicant due to their failure to understand and comply with any requirement set out in this Policy.

## **APPENDIX B:**

# **POLICY ON THE ASSESSMENT OF THE CRIMINAL CONVICTIONS, CONDUCT AND BEHAVIOUR OF INDIVIDUALS**

## **1.1 Introduction**

- 1.1.1 The Council must be satisfied that an individual is a 'fit and proper' person to drive or operate a private hire or hackney carriage vehicle, or suitable to be licensed to own one. The Council's Policy is set out in this appendix applies to applicants for new licences, those renewing and those holding a licence subject.
- 1.1.2 This Policy applies to criminal convictions and driving endorsements, as well as in relation to any other information about an individual's character or conduct of which the Council may at any time be aware of.
- 1.1.3 A person's record of any criminal and driving offences and general history of behaviour is an essential requirement to ensure that an individual does not pose a threat to the safety of public. An individual's past conduct reflects, their choices and decisions at a particular point in time. These choices and decisions reflect an individual's understanding of right and wrong, their consideration of acceptable risk versus reward, their honesty, integrity, morality, prejudices as well as their physical and mental abilities to carry out a particular role.
- 1.1.4 An individual's past conduct can be indicative of how an individual may choose to behave in future or in certain situations. This is not an exact science and an assessment of an individual by the Council has to take into account the risk to the public should an individual behave in a manner in which they have previously demonstrated is part of their character. The more significant the risk to the public the more wary the Council will be to grant a licence.
- 1.1.5 A person who has been convicted of a criminal offence shall not be prevented from applying to the Council and requesting consideration of their application. An individual need not be permanently barred from ever obtaining a licence but is expected to remain free of conviction for a duration commensurate with the seriousness of the offence in order to evidence to the Council that they are no longer likely to behave in such manner again and do not pose a danger to the public.
- 1.1.6 Simply remaining free from convictions will not generally be regarded as sufficient evidence that a person is a 'fit and proper' person to hold a licence. The overriding consideration is the protection of the public and for some offences the duration in which a person will be expected to be free from conviction is significant.
- 1.1.7 Some offenses are so serious that Hertsmere residents would not expect their Council to grant a licence to someone convicted of them. Those with serious violent or sexual offences, on the DBS barring list for working with children or adults or on the sex offenders register should expect to never to be licensed by the Council. This is because repeat behaviour would have such devastating consequence to the public that no period free of conviction is considered sufficient to justify the risk.

- 1.1.8 Hackney-carriage and private-hire drivers are listed as regulated occupations in the Rehabilitation of Offenders Act 1974 (Exceptions) Order (Amendment) (No 2) 2002 and the Council is able to request sight of an Enhanced criminal record disclosure which will reveal all convictions, including those that are spent, as well as any information that the Police have that may be considered by them to be relevant to the Council's consideration.
- 1.1.9 Private hire operators and vehicle proprietors are not required to provide an enhanced disclosure – however the Council can still consider any spent convictions relevant to such individuals where they are known.
- 1.1.10 **All** types of criminal offences are relevant regardless of the offence, sentence or age at the time of commission. For the purpose of the timescales expressed in **these** guidelines, cautions, driving endorsements and fixed penalties will be treated as convictions and the term “conviction” should be read as applying to them in the same manner.
- 1.1.11 The Council will also take into account the number of convictions irrespective of category; the number of counts on a conviction; the sentencing Court concerned; and the sentence imposed. Reference to Magistrates / Crown Court guidelines may be considered.
- 1.1.12 The Council will investigate and review the licence of any person convicted of an offence and may suspend or revoke, or refuse to renew a licence, in such instances.
- 1.1.13 The guidelines in this appendix apply the same to any licence holder convicted of an offence whilst licenced or when applying to renew and should be construed accordingly. For example, if an offence stated will result in the refusal of a new application it should be read that it shall also result in the refusal of a renewal application or the revocation or suspension of a licence that has been granted.
- 1.1.14 This offence listed in this appendix are not exhaustive and any Offence stated in this part should be read as including all offences similar to it, any offence that replaces it, the attempt or conspiracy to commit it, or the aiding, abetting and procuring of it.
- 1.1.15 The Council takes a serious view of all criminal offences but, given the purpose of the licences it will grant, convictions for driving, dishonesty, violent or sexual offences will be of particular concern.
- 1.1.16 Individual convictions will be considered on their own merits as well as in context with any other convictions. The cumulative effect of more than one conviction will be considered and a further period of time without further offence than those stated in this appendix will be necessary.
- 1.1.17 The Council is aware that the test of fit and proper that applies to drivers is different to that of Operators, and there is no set statutory test for proprietors. Except where stated specifically in this appendix appropriate adjustment may be made on the individual merits of a case taking into account the different role of an operator and proprietor.

## **2 DRIVING OFFENCES**

- 2.1.1 The Council acknowledges that the DVLA distinguishes between minor traffic offences and major traffic offences. The table at the end of this appendix lists all present DVLA driving offences and whether they are major or minor. The Council shall also adopt this distinction but recognises that regardless of whether an offence is classed as major or minor, it is still an offence resulting from an individual has falling below the required legal standard for a driver.
- 2.1.2 The use of the word “minor” should not be taken to indicate that the Council treat such matters as trivial. Given the nature of the work carried out by licensed drivers, their customers and the Council expect licence holders to have a suitable standard of driving. Therefore any offence is of concern.
- 2.1.3 References to penalty points and endorsements in this part mean those imposed by the DVLA on a driving licence issued by the DVLA.

## **2.2 History of offending**

- 2.2.1 A record of endorsements (spent or otherwise) will be a relevant consideration when determining applications or reviewing licences. The number, frequency and nature of all endorsements will be considered cumulatively. If in the opinion such history indicates to the Council that a driver is either careless, irresponsible or does not respect the rules and regulations applicable to road users the Council will consider the applicant or licence holder to not be fit and proper to hold a licence, regardless of how many points, if any, are on an individual’s licence at any one time.

## **2.3 Minor Traffic Offences**

- 2.3.1 If a new applicant has six or fewer unspent penalty points on their driving licence for minor traffic offences a licence will still be granted on the basis that they will have passed the taxi driving test as part of the application process. They will be given a clear and strong warning about their duties if a licence is granted and that any further endorsements would put them at risk of revocation or suspension.
- 2.3.2 The above is subject to their being no other concerns (whether taken separately to, or cumulatively with, their driving endorsements) or a pattern of driving endorsements that prevent the Council from being satisfied that the individual is fit and proper.
- 2.3.3 However, if an individual has previously taken the advanced taxi driving test and has subsequently reached 6 penalty points since that test, the application will not be granted unless a further test has been passed.
- 2.3.4 An applicant with 9 or more penalty points for minor offence will not be granted a licence.
- 2.3.5 An applicant that has been disqualified from driving under the DVLA totting up procedure (having received 12 DVLA points within 3 years) will not be granted a licence unless they:
- a. Have had have their DVLA driving licence reinstated for at least 12 months before application;



- b. Have received no further driving endorsements since their DVLA licence was reinstated.
- c. Have passed the advanced driving test;

2.3.6 An applicant who has reached 12 points in 3 years under the DVLA totting up procedure but retained their licence on hardship grounds will not be considered for a licence unless at least 12 months have elapsed in which they have received no further endorsements, they have no more than 6 points showing remaining on their DVLA licence at the time of application and they have passed the relevant driving test.

2.3.7 Where the Council is aware that an individual has received a non-endorsable fixed penalty notice (i.e. does not result in penalty points on a DVLA licence) it will still take these into account.

2.3.8 A disqualification from driving on more than one occasion is strong evidence that an individual is not suitable to be licensed.

## **2.4 Major Traffic offences**

2.4.1 The Council is unlikely to consider it suitable to licence someone to work as a professional driver where they have been convicted of a driving offence that has resulted in the loss of life. Such offences include:

- a) Causing death by dangerous driving;
- b) Causing death by careless driving whilst under the influence of drink or drugs;

2.4.2 If a period of at least 10 years has elapsed since the completion of any sentence given and there has been no further offence, an applicant may be considered suitable dependent upon the Council's consideration of any relevant mitigation.

2.4.3 An applicant convicted of a major traffic offence such as Dangerous Driving or Reckless driving that has not resulted in the loss of life but has resulted in other significant harm or injury to a member of the public must be 10 years clear of any sentence before the Council could justify giving serious consideration to any relevant mitigation.

2.4.4 Dangerous or reckless driving clearly poses a risk to the public and the absence of injury or death is likely to fortuitous rather than due to any conscious choice or act by the individual. Any count of dangerous or reckless driving will require at least 7 years to elapse since the date of conviction.

2.4.5 Other major traffic offences relate to either significantly poor standards of driving, acts of dishonesty or lack of regard to other road users. An applicant should be at least 5 years clear of any such offence not specifically stated in this appendix.

## **2.5 Driving offences committed by licensed drivers**

2.5.1 The Council expects that the drivers it has licensed to drive members of the public in a private hire or hackney carriage vehicle to drive sensibly, safely and lawfully at all times.

- 2.5.2 Any driver who is convicted of a Major traffic offence will have their licence revoked.
- 2.5.3 Any driver who incurs 6 or more penalty points on their DVLA licence within any 3 year period, after having being deemed fit and proper by the Council will have their licence "reviewed." The driver may be required to either re-take the advanced driving test, the Council's knowledge test or both - unless more serious concerns are present.
- 2.5.4 A licensed driver who has 9 DVLA points on their licence at any one time is of significant concern. As a minimum the driver will be expected to retake the advanced driving test and the Councils knowledge test and may be suspended until these are completed. However, if the Council has already attempted to rectify the drivers standard of driving by requiring the completion of a test previously the licence will be revoked.
- 2.5.5 An individual already working as a licensed driver who reaches 12 DVLA points shows a significant disregard for their duties and lack of responsibility They will have their licence revoked even if they have retained their DVLA licence on 'hardship' grounds. A period of at least 3 years should elapse before they would be considered suitable.

#### **2.5.6 Insurance Offences**

- 2.5.7 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided the applicant has been free of conviction (from the date of the completion of any sentence) for 3 years; however, a strict warning will be given as to future behaviour.
- 2.5.8 A licence will not normally be granted if an applicant has more than 1 conviction for an insurance related offence.
- 2.5.9 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst there is no insurance in place will normally have their operator licence revoked immediately and be prevented from holding a licence for a period of at least 3 years.

#### **2.6 Driving while unfit through Alcohol or of Drugs (including medication)**

- 2.6.1 An applicant convicted of an offence of driving, attempting to drive, or being in charge of, a motor vehicle unfit through alcohol or with alcohol levels in the blood, breath or urine above the legal limit will not be licensed until at least 7 years elapsed following the restoration of their DVLA driving licence.
- 2.6.2 An applicant convicted of an offence of driving, attempting to drive, or being in charge of, a motor vehicle when unfit through drugs or with drug levels in the blood, breath or urine above the legal limit not be licensed until at least 7 years elapsed following the restoration of their DVLA driving licence.
- 2.6.3 A licence will not be granted where there is more than 1 conviction for an offence of this type.

## **2.7 Operators and Proprietors**

2.7.1 The Council recognises that the role of an operator or proprietor will not be to drive a licensed vehicle and pose an imminent danger to the public by their driving standard. Where an operator or proprietor is also a driver, it is likely that any necessary action will be taken in respect to the drivers licence instead.

2.7.2 Convictions for traffic offences will still be considered in respect to the overall suitability of an individual (i.e. honesty) or those that call into question the operators or proprietors judgement of vehicle safety standards (i.e. using a vehicle with defective brakes). Where an Operator or Proprietor has been convicted of a major traffic offence that is not related to the standard of driving and instead shows dishonesty, disregard for the law or for public safety a licence will not be granted unless 5 years have elapsed.

## **3 SEX AND INDECENCY OFFENCES**

3.1.1 Licensed drivers carry unaccompanied and/or vulnerable passengers and therefore the Council will not grant a licence where the applicant has been convicted of:

- 1) Rape
- 2) Assault by penetration
- 3) Offences involving children or vulnerable adults
- 4) Sexual assault
- 5) Indecent assault
- 6) Possession of indecent photographs, child pornography etc.
- 7) Exploitation of prostitution
- 8) Trafficking for sexual exploitation
- 9) Trafficking for prostitution;
- 10) Trafficking for exploitation
- 11) Indecent exposure
- 12) Similar or replacement offences to those listed above (including attempted or conspiracy to commit);

3.1.2 A licence will not be granted to any person on the sex offenders register or who is on the DBS barred list for working with children or adults.

3.1.3 The Council is prepared to consider an application from an individual convicted of any of the below offences after a period of at least 10 years has elapsed without further offence:

- 1) Soliciting or loitering for the purpose of prostitution
- 2) Importuning;
- 3) Offences of holding obscene material

3.1.4 The Council recognises that the commission of such offences are often reflective of an individual's perspective that the other parties that are the subject to the solicitation or obscene material are of less worth or value in society. Therefore, when considering if to grant a licence to someone convicted of an offence in para 3.1.2 the Council will also consider the impact of the individuals' offence on others

in society and will expect to be satisfied that the applicant is capable of valuing all members of society and shall not discriminate in anyway.

- 3.1.5 The Council will revoke the licence of any license holder convicted of any of the above offences. Any person who has committed such offences poses a significant and serious risk to the public.

## 3.2 Operators and Proprietors

- 3.2.1 The Council considers all of the above offences to be of such serious nature that it will apply the same criteria in paragraph 3.1.1 to 3.1.5 to applicants for a licence to operate or own a licensed vehicle.

## 4 Violence

- 4.1.1 A Licence will not be granted to any person convicted of the following offences:

- 1) Murder;
- 2) Manslaughter;
- 3) Manslaughter or culpable homicide while driving;
- 4) Terrorism offences;
- 5) Arson with intent to endanger life;
- 6) Kidnapping;
- 7) Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

- 4.1.2 The Council will not grant a licence to any person who has, in the 10 years prior to an application, been convicted of:

- 1) Arson;
- 2) Threats to kill;
- 3) Wounding with intent to cause grievous bodily harm;
- 4) Grievous bodily harm;
- 5) Robbery;
- 6) Possession of a weapon;

- 4.1.3 Unless there are sufficient mitigating circumstances an applicant with more than one conviction for the above will not be licensed.

- 4.1.4 The Council will not grant a licence to any person who has, in the 5 years prior to an application, been convicted of:

- 1) Common assault;
- 2) Assault occasioning Actual Bodily Harm;
- 3) Affray;
- 4) Assault with intent to resist arrest;
- 5) Assault on Police;
- 6) Public Order offences;
- 7) Criminal Damage;
- 8) Harassment;
- 9) Similar or replacement offences to those listed above (including attempted or conspiracy to commit).

4.1.5 Unless there are sufficient mitigating circumstances an applicant with more than one conviction for the above will not be licensed for at least 10 years.

## **4.2 Domestic Violence**

4.2.1 The Council takes allegations of domestic violence against licence holders seriously. Instances of domestic violence indicates that an individual does not treat someone whom they are expected to love and care for with appropriate respect. Such instances also involve the abuse of a position of power, or bullying, by one party over a person who is physically or emotionally weaker, or dependant on the abuser. This undermines the trust that the Council can have in that individual to appropriately safeguard vulnerable people who may be conveyed by that driver.

4.2.2 Allegations of domestic violence are difficult to prove and in cases where one party is dependant on the other financially or under social or family pressure, they may not be willing to provide a statement to the Police. It is therefore likely that reports to the Council about domestic violence issues will result from the police attending in respect to a third-party claim.

4.2.3 The Council cannot investigate these offences. An individual convicted of an offence of domestic violence will have their licence revoked. A new applicant with such a conviction will not have a licence granted for at least 5 years. A licence holder subject to more than one allegation of domestic violence will be investigated and have their licence reviewed.

## **4.3 Operators and Proprietors**

4.3.1 Individuals who have been convicted of offences involving violence pose a greater risk to the public when working as a driver than as an operator or vehicle proprietor. However, the offences set out in 4.1.1 are significant and a licence will not be granted to operate or own vehicles where an applicant has such a conviction.

4.3.2 Operators and proprietors must comply with a variety of regulatory requirements, work with enforcement officers, show due regard to the safety of the public and respect for their property and be trustworthy. The Council will therefore apply the same requirements for operators and proprietors as it does for drivers in respect to the following offences:

- 1) Arson;
- 2) Threats to kill
- 3) Robbery;
- 4) Assault with intent to resist arrest;
- 5) Assault on Police
- 6) Criminal Damage;
- 7) Harassment;

4.3.3 A lesser time period free of conviction than that set out for drivers may be acceptable in respect to any offences not referred to in 4.1.1. or 4.1.10, provided that the Council is satisfied that the offences do not indicate a disregard for the welfare and safety of the public at large, that would be incompatible with the role of an operator or proprietor.

#### **4.4 Existing drivers**

- 4.4.1 Any act of violence committed by a licensed driver will normally result in the licence being revoked and the individual will not be considered fit and proper to hold a further licence with Hertsmere Borough Council.

#### **5 DISHONESTY**

- 5.1 A licence will not be granted where an applicant has in the 10 years prior to an application been convicted of:

- 1) Robbery
- 2) Burglary
- 3) Theft (where a custodial sentence is served or suspended, abuse of position of responsibility or breach of trust)
- 4) Forgery
- 5) Fraud
- 6) Conspiracy to defraud
- 7) Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

- 5.1.1 A licence will not be granted where an applicant has in the 5 years prior to an application been convicted of:

- 1) Benefit fraud
- 2) Driving whilst disqualified
- 3) Taking a vehicle without consent,
- 4) Handling or receiving stolen goods
- 5) Obtaining money or property by deception
- 6) Other deception
- 7) Tax

- 5.1.2 The above are minimum time periods. Where offences of dishonesty have been committed as part of organised crime or with serious distress to victims the period may be longer.

- 5.1.3 An applicant with more than one conviction for an offence of dishonesty will be expected to be at least 10 years clear of the most recent conviction but may, never be considered fit and proper if there is a pattern of behaviour that cannot satisfy the Council that the individual will not take advantage of customers if the opportunity presents itself.

#### **5.1.4 Operators**

- 5.1.5 Dishonesty offences committed by an operator are of significant concern. An operator will not be licensed until they are at least 10 years clear of a conviction relating.

- 5.1.6 Any individual who has been disqualified as the director of a company will not be considered suitable to operate a business until such time as their disqualification period has ended. Even then, a further period of time may be expected.

- 5.1.7 An individual who has been convicted of any offences when acting in their capacity as a director of a company will not be licensed until they are at least 5 years clear.
- 5.1.8 Where an applicant for a licence is a company, or includes a director who has been involved in a company, that has been prosecuted for offences of fraud, bribery, false accounting, health & safety breaches, data protection breaches, negligence and manslaughter no licence will be granted.
- 5.1.9 Applicants involving an individual, company or director found to have committed offences filing their accounts late or failing to pay tax will not be licensed for at least 3 years.
- 5.1.10 Where an applicant for a licence is a company, or includes a director who has been involved in a company that, has been prosecuted for the commission of any other offences involving dishonesty a licence will not be granted for at least 10 years.

## **6 LICENSING AND OTHER REGULATORY OFFENCES**

- 6.1.1 The Council will not grant a licence to an applicant convicted of Licensing Offence (i.e. an offence under the 1847 Act, the 1976 Act, bye-laws, associated legislation or as a result of a breach of licensing conditions) until the applicant is at least 3 years clear of the conviction.
- 6.1.2 The Council will not grant a licence to an applicant convicted of an offence under any other regulatory regime (i.e. licensing, planning, food safety etc.) until the applicant is at least 1 year clear of the conviction. If the failure is due to the non-compliance with the provisions of a regulatory regime that has, or could have, undermined public safety the applicant must be 3 years clear of the conviction.
- 6.1.3 Warning letters (or any similar correspondence) issued to an applicant by another regulatory body maybe taken in account and no licence will be granted where the Council is not satisfied that the applicant will understand or comply with the requirements of the licensing regime.

### **6.2 Licensed Drivers**

- 6.2.1 The Council will review the licence of any individual found to be committing a licensing offence and a licence holder convicted of such an offence will have their licence revoked.
- 6.2.2 The Council recognises that the purpose of the licensing regime is to protect the public and not to “punish” individuals. A conviction may be sufficient to remind an individual of their duties and responsibilities. The Council may chose not revoke a licence if the licence holder:
  - 1) has not previously been convicted an offence;
  - 2) has no other relevant convictions;
  - 3) has not previously been warned about the offence;
  - 4) admitted the offence and assisted officers with their investigation;
  - 5) Satisfactorily passes the Councils training day and Knowledge test.
- 6.2.3 A licence holder who has their licence revoked will not be granted another licence until at least 3 years have elapsed.

## **6.2.4 Suspension/Refusal/Revocation by another Licensing Authority**

- 6.2.5 An applicant who has been suspended/refused/revoked by another Licensing Authority is likely to also not be considered “fit and proper” by Hertsmere Borough Council. The Licensing Authority shall have a right to make enquiries to that other authority.
- 6.2.6 Applicants who already hold a licence with another licensing authority should not automatically assume that their application will be granted by Hertsmere Borough Council. Each case will be decided on its own merits.
- 6.2.7 Licence holders who are licensed by multiple authorities are expected to inform all authorities of who they are licensed by and to advise each authority of any changes in this respect. Applicants should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

## **7 CAUTIONS AND FIXED PENALTY NOTICES**

- 7.1.1 For the purpose of the timescales expressed in these guidelines, cautions, endorsements and fixed penalties will be treated as though they were convictions.
- 7.1.2 The Council recognises that cautions or fixed penalty notices are utilised for certain offences to deliver more efficient and effective justice where it is not in the public interest to prosecute. However, a person must admit that they committed the offence in order to be cautioned or to accept the penalty notice. As such it is right that the Council apply the same timescale as it would to a person convicted of the same offence.
- 7.1.3 An applicant subject to a current court order or injunction will not be granted a licence and the Council will expect an applicant to be at least 1 year clear of a court order or injunction and at least 3 years for any court order or injunction related to anti-social behaviour, harassment, violence or dishonesty before a licence is granted.
- 7.1.4 Fixed penalty notices issued in respect to driving offences are considered in part 2 above. An individual issued with one fixed penalty notice in relation to an environmental or antisocial behaviour matter will need to wait 6 months following the issue of such a notice to satisfy the council that it was a one-off indiscretion. More than one such notice or where other offences have been committed will indicate that a period of 12 months if not longer should be allowed to elapse before a licence is considered suitable.
- 7.1.5 Penalty notices for disorder, criminal damage and theft will be considered as convictions in line with the respective paragraphs above.
- 7.1.6 Penalty notices for selling alcohol to a person who is drunk or to a child indicate a concern about the individual ability to comply with regulatory regimes. Where the person committing the offence was a licence holder or in a position of responsibility at the premises a period of 3 years should elapse or in any other case, 12 months.

## **8 NON-CONVICTION INFORMATION / CONDUCT**



- 8.1.1 Information presented to the Council as part of an enhanced DBS check that reveals information about an individual which did not result in a conviction will still be considered in line with the guidelines above.
- 8.1.2 However, applicants can also display conduct which is not necessarily criminal or does not result in charges being made. The Council accepts that it cannot know everything about an applicant and does not believe that it is proportionate for it to seek to uncover any conduct committed by an individual in private, published on the internet or in private communication with other people.
- 8.1.3 However, where the Council is aware that an individual has behaved in a manner, or expressed views that undermine the Council's confidence in that individual being able to provide a fair service to all members of the public, a licence will not be granted.
- 8.1.4 Conduct that will be of concern includes, but is not limited to, any form of prejudices based on age, race, religion, sex, sexual orientation, gender identity, disability or any conduct that is considered to incite hatred or discrimination against any section of the public.
- 8.1.5 The Council expects applicants and licence holders to be professional drivers and to have a professional relationship only with their customers. The Council will have understandable concerns about the intentions of a licence holder befriending passengers on social media or obtaining personal information such as telephone numbers etc.
- 8.1.6 Applicants who show any form of dishonesty in the application process will not be licensed, unless an Officer assesses that dishonesty was due to an administrative misunderstanding and not intended to, or could not have, concealed relevant information from the Council.
- 8.1.7 An applicant who fails to declare that they have been convicted of an offence, either before or during the application process. An applicant being investigated for an offence, or charged with an offence, during the application process is expected to bring the matter to the Council's attention. An applicant who fails to declare that they have previously held a licence under the 1976 or 1847 Acts, or that one has been revoked or suspended will have their application refused. Failure to do so will result in their application being refused, any licence granted revoked and prosecution for the criminal offence of making a false statement to the Council.
- 8.1.8 Existing licence holders applying to renew a licence must also re-state any convictions previously received, even if they told the Council before.
- 8.1.9 Cheating or improper conduct in relation to the Councils training day and knowledge test will result in refusal.

## **9 AGGRAVATING FEATURES**

- 9.1.1 When considering if an individual is suitable to be licensed following a conviction the Council will also consider if there are aggravating features that suggest a further period of time is necessary to elapse beyond the periods indicated above, before a licence will be granted.

- 9.1.2 The Council will expect an additional period of time beyond those stated above to have elapsed, where offences have been committed that were motivated by, or demonstrated, hostility based on any of the following religion, race, disability, sexual orientation or transgender identity or with the purpose of degradation of an individual for such purposes;
- 9.1.3 The Council will also expect a further period of time to elapse than that set out above if the offences committed involved:
- a) the abuse of a position of trust;
  - b) the use of a licensed vehicle or driver;
  - c) multiple victims
  - d) vulnerable victims or the deliberate targeting of a vulnerable victim
  - e) an intention to commit more serious harm, or the likely possibility of more serious harm occurring, than that which actually resulted from the offence;

## **10 ALCOHOL AND DRUGS**

- 10.1.1 The influence of alcohol or drugs are not considered to be a mitigating factor when applying the criteria of this appendix. An applicant convicted of offence that is not considered elsewhere in this appendix and involves alcohol or drugs as a cause will not be considered fit and proper for a period of at least 12 months from the date of conviction.
- 10.1.2 More than one conviction for offences involving alcohol or drugs may indicate a clinical alcohol or drug dependency. Particular if the offences are recent or spread over a period of time. The Council cannot diagnose such addiction or dependency and where there is an indication that a person has suffered, or currently suffers from, clinical alcohol dependence will be refused.
- 10.1.3 An applicant may undergo a special medical examination at their own cost to satisfy the Council that clinical alcohol or drug dependence is not the case. The Council will not licence any person until at least 5 years after the completion of medical treatment.
- 10.1.4 The Council will not grant a licence to an applicant convicted of possessing drugs until at least 3 years has elapsed since the date of conviction.
- 10.1.5 The Council will not grant a licence to an applicant convicted of the supply of drugs until at least 3 years has elapsed since the date of conviction.
- 10.1.6 An applicant convicted of more than one offence of the supply of drugs will not be licensed.
- 10.1.7 An applicant who has served more than 3 years in custody will be expected to undergo a longer period of time than that indicated above.

## **11 ALLEGATIONS AGAINST THOSE HOLDING LICENCES**

- 11.1.1 Where an allegation or complaint is made about a licensed driver the Council will investigate and review that licence. Allegations made about an individual applying

for a licence (or renewing a licence) will result in the application either being refused or held in abeyance until the matter is resolved.

- 11.1.2 The Council recognises that an individual is innocent until proven guilty and whilst an allegation may not be true, the Council's overriding responsibility is to the safety of the public. The Council must therefore consider the potential risk to the public should a driver continue to be licensed if the conduct alleged is likely to be repeated.
- 11.1.3 This appendix sets out durations in which an individual should be free from conviction before a licence is granted. This is to allow the Council to be satisfied that there will not be a repeat of the unlawful behaviour. Offences which the Council would normally expect 5 or more years to elapse before an individual is able to demonstrate that they are fit and proper are considered 'significant offences.'
- 11.1.4 An allegation that a licensed driver has committed a significant offence and/or caused harm to another person - whether a stranger, customer or family member in a manner that is violent, sexual or abusive in nature is an unacceptable risk to members of the public.
- 11.1.5 The Council cannot know whether the individual is guilty or not, and cannot "predict" that future harm would occur, but must base its decision on the balance of probabilities as to whether a) it is possible that the allegation is true and, b) if true, would the Council consider someone guilty of such an offence to not be a fit and proper person.
- 11.1.6 If the Council considers that on the balance of probabilities the allegation is possibly be true and would indicate the individual is not fit and proper the Council will suspend or revoke the licence. The Council will suspend or revoke a licence with immediate effect where a licence holder is alleged to have committed an offence which the Council considers to pose a significant risk to the public and it is in interest of public safety to act immediately.
- 11.1.7 In determining if an immediate suspension or revocation is reasonable the Council will consider first and foremost the seriousness of the offence alleged and if repeated, the consequences and harm to a member of the public.
- 11.1.8 The Council may further consider whether the licence holder has been charged, whether the licence holder notified the Council of the offence and the licence holders' previous criminal history or pattern of conduct.
- 11.1.9 Where an allegation about a licensed driver is being investigated by the Police or another agency and there is no immediate public safety risk the Council will wait until the conclusion of that investigation.

### VEHICLE SPECIFICATIONS

#### 1 Introduction

- 1.1 This appendix sets out the minimum physical and design specifications that Hertsmere Borough Council expects vehicles licensed for hire or reward to meet. An application for hackney carriage or private hire vehicle licence shall not be granted in respect to a vehicle that does not meet the specifications set out in this appendix. Once licensed, a vehicle shall be conditioned to continue to meet these specifications at all times.
- 1.2 Vehicles must be of the manufacturers' original specification, construction and design unless a proprietor can evidence that any modifications made have been carried out to the relevant legal safety standards stated below.
- 1.3 The Vehicle must be maintained to all relevant statutory requirements applicable to the class of vehicle to which it belongs including the Motor Vehicle (Construction and Use) Regulations 1986 and not have any damage affecting the structural safety of the vehicle. In addition to the requirements of this appendix a vehicle must also comply with any other legal requirement relating to the construction and use of the vehicle and any other requirement of this Policy or Council byelaws.

#### 2 Conditional Licensed vehicle specifications

- 2.1 Vehicles licensed by the Council must be certified by the Vehicle Certification Agency (VCA) and be of M1 classification. This will require compliance with:
- (1) The Motor Vehicle (Type Approval) Regulations 1980 (European Community Whole Vehicle Type Approval);
  - (2) The Motor Vehicle (Type Approval) Regulations 1984 (United Kingdom Low Volume Type Approval),
  - (3) The Road Vehicles (Construction and Use) Regulations 1986.
- 2.2 Motor vehicles with M1 type approval (European Community Whole Vehicle Type Approval) which have subsequently been modified or altered since manufacture must be presented with:
- (1) United Kingdom Low Volume / Small Series Type Approval for Passengers Cars; or
  - (2) United Kingdom Single Vehicle Type Approval
- 2.3 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.

- 2.4 Vehicles that do not meet the above will only be considered suitable for a licence if the proprietor can satisfy the Council that the vehicle meets, or has a vehicle approval equivalent to, the above standards. The proprietor shall be required to pay for any additional report or inspection that the Council may reasonably require to achieve this.
- 2.5 Should any of the above standards cease to be recognised in UK law any equivalent vehicle approval system replacing them shall be accepted as compliant with this part, subject to any further change made to this appendix by the Council.
- 2.6 Once licensed, no material alterations or changes in the specification, design, condition or appearance of the vehicle may be made without the approval of the Council. Approval will not be given where the vehicle does not comply with any of the requirements set out above.
- 2.7 A vehicle that has been written off by an insurance company will not be licensed by the Council save for where the vehicle is already licensed by the Council and it is a category “N” (non-structural damage) write off and the proprietor can provide evidence of the damage and standard of repair. A vehicle written off whilst holding a licence must undergo an additional MOT before it is permitted to continue to operate.

### **3 Standard Vehicle Requirements**

#### **3.1 All vehicles must:**

1. Be for the Carriage of at least 4 and no more than 8 passengers.
2. Have a seatbelt for each passenger that can be seated in the vehicle.
3. Have a current and valid MOT certificate.
4. Have windows to the side and rear providing natural light and ventilation to the passenger compartment.
5. Provide sufficient means by which any person in the vehicle may communicate with the driver.
6. Have reasonable and sufficient luggage space for the maximum number of passengers that the vehicle is licensed for and which is physically separated from the passenger seating.
7. Not be convertible.
8. Not be left-hand drive.
9. Be within the requirements of the Council’s Licensed Vehicle Age Policy (below).

### **4 Vehicle Type and Colour**

#### **4.1 An application for a new hackney carriage licence can only be made in respect of a vehicle which is either:**

- i) a “London TX Style” type, purpose-built wheelchair accessible hackney carriage in **any colour** of the original manufacturer’s specification, or
- ii) a wheelchair accessible vehicle **black** in colour approved by the Council;

- 4.2 All Hackney Carriages must comply with the requirements of the Hertsmere Borough Council Byelaws contained in Appendix I.
- 4.3 For the purpose of this Policy, a “new” application means any application in respect to a vehicle which does not already hold a licence granted by the Council at the time of application.
- 5 Vehicle Age, Mileage and MOT testing frequency**
- 5.1 All new vehicles presented for licensing must meet the following requirements:
- i) Be no older than 6 years of age at the time of application and;
  - ii) Be Euro 6 compliant
- 5.2 Once licensed a vehicle may continue to be renewed until the age of 8 years.
- 5.3 Notwithstanding the above a proprietor may make a separate “age exemption” application, and pay any additional extra fee that the Council may require, to licence, or renew a licence, in respect to a vehicle that does not meet the relevant age requirements if the proprietor believes exceptional circumstances relevant to the vehicle exist which the Council should consider.
- 5.4 In considering whether to depart from its policy on the age of vehicles, Officers will check the history of the vehicle, its previous MOT history, service history, mileage and any enforcement action previously taken. The vehicle shall also be required to pass an MOT and compliance test from the Council’s authorised garage.
- 5.5 Should Council officers consider that the vehicle history is acceptable and the vehicle is in exceptionally good mechanical and bodywork condition, has no cosmetic defects and has been tested by an approved garage, the application to renew may be allowed provided that the vehicle is either:
- i) Euro 6 compliant (including equivalent to, or above);
  - ii) Wheelchair Accessible; or
  - iii) Subject to exceptional circumstances relevant to the vehicle which means that the vehicle looks, operates and is as safe as a vehicle which would meet the relevant age threshold.
- 5.6 A vehicle granted a licence following an age exemption application will continue to be licensed until the expiry of its licence or until such time as a mechanical or cosmetic defect is found whereby the vehicle is no longer exceptional. Once a licence has expired, the proprietor may make a further age exemption application.
- 5.7 The Council will avoid setting an arbitrary mileage limit but shall take into account vehicle mileage when considering if to depart from its policy. A vehicle with mileage in excess of 150,000 miles would be expected to have a full-service history in order to continue to be licensed.
- 5.8 Notwithstanding the above, it is expected that all vehicles are maintained, serviced and inspected in accordance with the manufacturer’s recommended schedule in terms of both mileage and time elapsed. The service history of a vehicle may be requested by the Council to establish if a vehicle is suitable to be licensed or continue to be licensed. The older a vehicle is the more likely it is that a full-service

history will be required in order to provide sufficient information to the Council to depart from its Policy.

- 5.9 All Vehicles under the age of 4 will require one MOT a year. Vehicles over the age of 8 (if permitted to continue to be licensed) must undergo an MOT every 6 months.
- 5.10 Any vehicle that holds a valid private hire or hackney carriage vehicle licence on the date this policy takes effect will be required to have one MOT test a year until that vehicle reaches the age of 8.
- 5.11 Any vehicle that is subject to a new application after the date this Policy takes effect will be required to undergo an MOT test twice a year once the vehicle is aged 4 years or older.
- 5.12 Where a vehicle is required to have a second MOT the licence holder will be conditioned to do this within 14 days either side of the 6 month anniversary date of the grant of the licence. The requirement for the second MOT will take effect upon the grant of any new, or renewed licence that occurs after the vehicle has reached the relevant age (of either 4 or 8).
- 5.13 The Council reserves the right to request any proprietor to present a new MOT certificate at any time during the period that a vehicle is licensed or, if on the individual merits of an application or enforcement measure, condition a vehicle to be tested twice a year.
- 5.14 Failure to undertake and pass an MOT as required will result in the vehicle licence being suspended. The licence holder will breach their conditions should they use their vehicle for licence purposes at any time when the vehicle does not hold a current and valid MOT or would not pass an MOT. Significant or continuing breaches by a driver, proprietor or operator in respect to passing MOT's on time will result in further enforcement actions.

## **6 Doors, Windows and windscreen**

- 6.1 All vehicles must have a minimum of 4 doors which are capable of being opened from the inside. The rear passenger compartment must have an openable door on either side of the vehicle.
- 6.2 Windows must be provided to all passenger compartments along with adequate means of opening and closing them. There should be at least 1 window on either side of the front driver and passenger compartments and 1 window on either side of the rear passenger compartments.
- 6.3 To comply with the Construction and Use Regulations the front windscreen of the vehicle must have a visual light transmission of 75% and the front side windows of at least 70%. These regulations do not impose any limit on the rear windscreen and rear passenger windows and the Council has discretion whether to permit the rear windows of a vehicle to be tinted.
- 6.4 Tinted windows will not be permitted in a Hackney carriage vehicle due to nature of public hire work and the safety risks arising out of the absence of journey records and the potential limit in a customer's choice over available vehicles.

6.5 Tinted windows will be permitted on a private hire vehicle provided that the windows are those that were fitted to the vehicle at the time of manufacturer.

6.6 Tinted film will not be permitted to be added to a vehicle at any time.

## **7 Tyres**

7.1 Vehicles must be fitted with either all radial or all cross-ply tyres, including the spare wheel, have at least 3mm depth of tread at time of testing.

7.2 Tyres, or parts of a tyre, must be in a safe and suitable condition at all times and with no damage that would be deemed an MOT failure or would present a public safety risk of further deterioration (for example cuts and bulges, foreign bodies in a tyre such as screws; nails etc.)

7.3 Vehicles must carry a suitable spare tyre if the vehicle was designed and manufactured to carry one and the means to change that tyre.

7.4 All tyres, including the spare wheel, must be suitable for use on the vehicle to which the licence or application relates and conform to the requirements of the Original Manufacturers' Specification.

7.5 Run-flat tyres are acceptable on licensed vehicles.

7.6 Space saver tyres or tyre repair kits/ compressor's are acceptable if part of the original design and manufacture of the vehicle but must be kept and maintained in accordance with that manufacturer's specification.

7.7 The use of a run flat tyre (if punctured), a 'space-saver' spare tyre or a tyre repair kit / compressor is permitted strictly to enable a driver to complete a customer's journey and enable the vehicle to be taken to a garage. Use of any of the above methods beyond this is a public safety risk and will attract enforcement action.

## **8 Mirrors**

8.1 The vehicle must be fitted with an internal rear-view mirror and both near and off side door mirrors in accordance with the appropriate legislation and/or manufacturers' specification.

## **9 Interior Dimensions, Seats and Seatbelts**

9.1 Sufficient space between the seat cushions and the lowest part of the roof must be provided to safely accommodate passengers in reasonable comfort. The minimum requirement of this space is 86 centimetres.

9.2 There must be a minimum of 18 centimetres between the back of the front seat and the front of the next row of rear seats to ensure sufficient leg space.

9.3 Passenger seats must be a minimum of 43 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.



9.4 Unless the Original Manufacturers' Specification states otherwise, the front seat of the vehicle next to the driver will be regarded as a seat for 1 passenger only.

9.5 All vehicles must be fitted with fully operational seat belts that are fully compliant with the relevant British Standard. There must be 1 seat belt for each passenger to be carried.

## **10 Fire Extinguishers**

10.1 Licensed vehicles must carry a fire extinguisher suitable for extinguishing vehicle fires (fire class B and C) and conform to BSEN 3, showing the appropriate kite-mark. The date of expiry must be clearly visible on the extinguisher and replaced once expired.

10.2 The extinguisher should be marked with the vehicle registration or Licence Plate number and be securely fixed in a position reasonably accessible to the driver in the event of an emergency.

## **11 First Aid Kit**

11.1 Licensed vehicles must carry a first aid kit meeting the requirements of BS 8599-2 (Medium Motorist First Aid Kit). The kit must be maintained in suitable condition and replenished as necessary and be marked with the vehicle registration or plate number of the vehicle.

11.2 The first aid kit should be stored in such position that is reasonably accessible to the driver to either treat themselves or provide to a passenger to treat themselves.

## **12 Replacement Bulb Kit**

12.1 A suitable replacement bulb kit meeting the vehicle manufacturer's specification must be kept in the vehicle. Once a bulb has been used from the kit it must be replaced as soon as practicable.

## **13 Warning Triangle**

13.1 A suitable warning triangle must be contained in the vehicle and used where necessary in accordance with the Highway code.

## **14 Luggage**

14.1 Adequate storage for passenger luggage must be available. Any luggage carried must be suitably secured in place without obstructing any exits.

14.2 If the licensed vehicle is an estate, hatchback, or multi-passenger type vehicle, the compartment must be fitted with a guard-rail or manufacturer's specification cover to prevent luggage from entering the rear passenger compartment. 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.

## **15 Maintenance & Condition of the Vehicle**

15.1 The exterior of all licensed vehicles shall be maintained in a clean and safe condition at all times. In particular, the exterior of the vehicle shall:

- (1) be free of dents;
- (2) be free of visible rust;
- (3) be free of unrepaired accident damage;
- (4) have uniform paintwork equivalent to that applied by the manufacturer;
- (5) be maintained in an acceptable state of cleanliness,

15.2 The interior of all licensed vehicles shall be maintained in a clean and safe condition at all times. In particular, the interior of the vehicle shall:

- (1) be free of all stains to the upholstery,
- (2) be free of all splits and tears to the upholstery,
- (3) be maintained in an acceptable state of cleanliness, and
- (4) provide seats functioning in accordance with the Original Manufacturers' Specification.
- (5) All lights, doors, door locks, boot / tail gate and locks, bonnet, hinges and catches, windows, sunroofs and hoods should be operating correctly

## **16 Safety Screens**

- 16.1 A safety screen is permitted to be installed provided it is done so to the satisfaction of the Council. A request should be made to the Council prior to the installation of the screen.
- 16.2 Sufficient means must continue be provided by which any person in the vehicle may communicate with the driver.

## **17 Communication Devices**

- 17.1 Only one approved licensed two-way radio may be operational in the vehicle at any one time and shall be used exclusively for the hackney carriage or private hire vehicle.
- 17.2 Two-way radio equipment must be of a type currently approved by the Radio Communications Agency and securely and safely fitted in accordance with any published guidance and in such manner that does not risk the safety of the driver or passengers.
- 17.3 The use of a Citizen Band (CB) transmitter or receiver or radio scanning devices are prohibited and must not be fitted or carried in the vehicle.

## **18 Meters**

- 18.1 Private hire vehicles are not required to be fitted with a taximeter. However where a taximeter or other device for recording fares is fitted, the type of meter, its installation and calibration, must be approved by the Council.
- 18.2 A meter complying with the Council bye-laws must be fitted in all hackney carriages correctly calibrated to the current Council approved fare structure, sealed appropriately in compliance with The Measuring Instruments (Taximeters) Regulations 2006.

- 18.3 Bye-laws require the taximeter to be brought into operation at the commencement of a journey and any outward sign reading “taxi” or “for hire” will be turned off. The meter must be clearly visible to passengers inside the vehicle and the figures displayed on the meter shall be legible and properly illuminated at all times when the vehicle is hired.
- 18.4 The Council’s fare tariff shall be clearly displayed and legible in the vehicle so as to be plainly visible to passengers carried therein.

## **19 Trailers**

- 19.1 Trailers may only be used if approved by the Council following an application request from a licence holder.
- 19.2 The trailer must comply with all the Road Vehicles (Construction and Use) Regulations 1986 and any other applicable legislation as assessed by the Council’s nominated garage and any inspection required by the Council.
- 19.3 A suitable lid or other approved means of enclosure must be fitted to secure and cover the contents of the trailer whenever in use.
- 19.4 The vehicle’s insurance must include cover for towing a trailer and the Council must be satisfied that the DVLA driving licence authorises the driver to drive a vehicle towing a trailer.
- 19.5 Trailers must display an identical Licence Plate to the licensed vehicle. The Council will charge an administrative fee for the duplicate plate as well as the application.
- 19.6 Trailers will not be permitted on a hackney carriage rank and approval will not normally be given to a hackney carriage unless the Council is satisfied that the trailer will only be used for specific pre-booked journeys and it is reasonable for a trailer to be used.

## **20 Wheelchair Accessible Vehicles**

- 20.1 Wheelchair accessible vehicles must be manufactured or adapted to carry at least one wheelchair passenger whilst the passenger is seated in the wheelchair.
- 20.2 Loading of the wheelchair may be from the side or from the rear.
- 20.3 There must be sufficient space between the front of the rear seat and any partition for an occupied wheelchair to turn and sufficient space for a wheelchair to travel facing forward or rearward.
- 20.4 Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus
- 20.5 The vehicle must have appropriate wheelchair tie down and occupant restraint system (WTORS) fitted to it in order to secure the wheelchair and ensure the safety of the passenger.

- 20.6 Wheelchair internal anchorage and WTORS must be of the manufacturer's design and construction and secured in such a position so as not to obstruct any emergency exit.
- 20.7 Wheelchair internal anchorage and WTORS must be installed and fitted by a competent person able to verify in a professional capacity that it has been fitted in accordance with all relevant legislative safety standards and requirements and that it complies with The Road Vehicles (Construction and Use Regulations) 1986.
- 20.8 Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
- 20.9 Ramps and lifts must be securely stored in the vehicle before it may move.
- 20.10 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. Any such equipment must be maintained in good working order and be available for use at all times.
- 20.11 Where a vehicle is designed or adapted to carry a wheelchair, the proprietor shall ensure all drivers have undertaken an enhanced practical driving test which includes how to load, secure and unload a wheelchair safely.

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

- 21.1 An applicant for a licence in respect to a vehicle that has been converted to run on LPG is required to produce a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle.
- 21.2 If a vehicle has been converted and an LPG fuel tank has been placed in the boot space there must still be enough available space in order to carry a reasonable amount of luggage.
- 21.3 If the removal of the spare wheel has taken place this must be relocated to a location that is not in the passenger carrying area of the vehicle. If the vehicle is unable to carry a spare wheel the Council may permit a suitable tyre repair kit / compressor to be carried within the vehicle or for the vehicle to be fitted with 'run flat' tyres.

## **22 Insurance**

- 22.1 The proprietor of a licensed vehicle shall ensure that an insurance policy complying with the requirements of Part VII of the Road Traffic Act 1988 is in place at all times that the vehicle is licensed and available for the carrying of passengers.
- 22.2 A certificate of insurance that names a driver who does not hold a valid hackney carriage or private hire driver licence (as appropriate) for the vehicle will not be accepted.
- 22.3 Where the Council is not satisfied that appropriate insurance is in place the vehicle licence shall not be granted or be suspended.

## **23 Changes to Vehicle**

- 23.1 Any change affecting a licensed vehicle must be notified to the Licensing Officer within 7 days of such change occurring.

## **24 Change in ownership**

- 24.1 Licences shall be conditioned to lapse 14 days after the proprietor's interest in a vehicle is transferred. The licensed plates must be removed returned to the council.
- 24.2 If the vehicle has been transferred to another person who wishes to continue to use the vehicle as a licensed vehicle, they may request that the licence is transferred by the Council to them.
- 24.3 This must be done within 14 days of the date of the transfer otherwise the licence will lapse.
- 24.4 The applicant shall need to provide evidence that they are now the owner of the vehicle by presenting the new keeper supplement or bill of sale, along with the means for the Council to check their suitability.
- 24.5 Unless the applicant is also a licensed driver the vehicle cannot be driven by the applicant until the licence is transferred by the Council.

## **25 Substitution of vehicle and Hire Vehicles**

- 25.1 A proprietor may decide that they no longer wish to use their currently licensed vehicle for hire purposes and instead use another vehicle. However, a licence is granted to a proprietor in respect to a specific vehicle and cannot be carried across or swapped to another vehicle, even if that other vehicle is owned by the same proprietor.
- 25.2 The proprietor must apply to licence the new vehicle separately and this can often result in perceived unfairness to a proprietor who has paid a licence fee and not had the full use of their licence. Proprietors are encouraged to plan any change in vehicle to coincide with the expiry of an existing vehicle licence to avoid this.
- 25.3 However, there are occasions where a proprietor wishes to change their vehicle in circumstances which they could not plan for – for instance where their licensed vehicle has been damaged in accident and cannot be repaired.
- 25.4 In such instances, where a proprietor is surrendering a vehicle licence (the old vehicle) but requesting the grant of a new vehicle licence (new vehicle), the proprietor may request that any portion of the enforcement fees previously levied by the Council are carried over to the new vehicle and, the cost of the new licence reduced accordingly. This “portion” will be calculated by the Council when setting its licence fees.
- 25.5 Where a proprietor needs to use a vehicle provided by an insurance company, for instance whilst their vehicle is being repaired following an accident, the temporary hire vehicle will still require a licence.

25.6 The administration of a licence application for a 'temporary hire vehicle' is largely the same as that of any other licensed vehicle application. However, when setting its fees, the Council will take into the account the fact that when licensing a temporary hire vehicle, it has already made a charge for certain administrative functions that it may not need to undertake again. Additionally in order to reduce the fee payable, the Council may permit the grant of a licence for a significantly short term such as one month.

### CODES of CONDUCT FOR LICENSED DRIVERS AND OPERATORS

#### CODE OF CONDUCT AND DRESS FOR LICENSED DRIVERS

Hertsmere Borough Council is committed to encouraging the professional conduct and image of its licensed drivers. The market for licensed hackney carriages and private hire vehicles is changing and becoming more competitive with customers having more choice. The Council seeks to ensure that residents of Hertsmere choose Hertsmere licensed drivers, vehicles and operators. This requires the trade to be collectively committed to high standards of conduct, dress and service.

The failure to comply with this code of conduct suggest that a driver is not fit and proper to be licensed. All licensed drivers are expected to:

##### **1. COMPLY WITH THE LAW**

- a) Read, understand and observe all licence conditions, byelaws and requirements of the Council's Licensing Policy.
- b) Comply with all laws applicable to them as currently in existence or enacted in future, including the Equality Act 2010, road traffic legislation, working time directives, tax laws and Health Act 2005;
- c) To make all reasonable adjustments to assist any person with a disability.
- d) To not refuse to take a passenger in a wheelchair or assistance dog.

##### **2. DISPLAY PROFESSIONAL CONDUCT**

- a) Be polite, helpful and fair to all members of the public.
- b) Not discriminate against any member of the public
- 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) Not eat in the vehicle in the presence of customers
- g) Respect authorised Officers during the normal course of their duties.

##### **3. PORTRAY A PROFESSIONAL IMAGE**

- a) Dress appropriately;
- b) Not display bare chests, shoulders or mid-drift;
- c) Not wear clothing with offensive slogans or logos
- d) Not wear anything completely or partially concealing their face or identity (e.g. caps, hoods);
- e) Not wear any type of clothing or footwear that affects the ability to drive safely.
- f) Maintain a high level of personal hygiene

##### **4. DRIVE SAFELY**

- a) Obey all road traffic laws, traffic regulation orders and directions.
- b) Drive with due care and consideration to all road users and pedestrians.

- c) Maintain vehicles to a safe and satisfactory standard.
- d) Not drive under the influence of drugs (legal or illegal) or alcohol, or at any time the driver is aware, or should reasonably be aware, that their ability to drive safely may be affected (i.e. unwell).

## **5. BE A GOOD NEIGHBOUR**

- a) Not cause unnecessary disturbance to residents
- b) Not sound the horn or other audible warning instrument on the vehicle other than in accordance with the Highway Code to attract the attention of passengers
- c) Not permit the volume of any music players, radios and/or other audio/visual devices within a vehicle to cause a disturbance to residents
- d) To take particular care to avoid any noise during the hours of 11pm- 7.30am in residential areas.

## **CODE OF CONDUCT FOR LICENSED OPERATORS**

In addition to a code of conduct for drivers, the Council also believes this needs to be supported by the professional operation of licensed operators and therefore a code of conduct for operators is also applicable.

Licensed Operators are expected to be fit and proper and failure to comply with this code of conduct may evidence that an operator is not fit and proper to be licensed. All licensed operators are expected to:

- (i) Take reasonable steps or have appropriate systems in place to ensure that the drivers of all vehicles operated by them comply with the law and the Council's Policy.
- (ii) Take steps to ensure that the drivers of, all vehicles operated by them, and the vehicles themselves, reflect positively on the image of Hertsmere Borough Council and the licensed trade of Hertsmere.
- (iii) Take all reasonable adjustments necessary to ensure that their customers with a disability have the same opportunities to use private hire services within Hertsmere.
- (iv) Provide all information required by the Council in a timely and accurate manner, not unreasonably withhold any information from the Council and provide all reasonable assistance to the Council when investigating offences and complaints and to provide witness statements where requested.
- (v) To be committed to improving and bettering the licensing regime within Hertsmere and providing the residents of the borough with safe and suitable vehicles driven by safe and suitable drivers licensed by Hertsmere Borough Council.



**GUIDELINES FOR DETERMINING DISPENSATIONS FROM THE DISPLAY  
OF A PRIVATE HIRE LICENCE PLATE**

**1 General**

- 1.1** The 1976 Act requires the Council to issue a licence plate to all private hire and this ordinarily will be required to be displayed on the vehicle by the Council's conditions.
- 1.2** The open display of the identifying licence plates is intended by the primary licensing legislation to protect the public and support the trade by identifying them as a regulated business.
- 1.3** There are occasions when the display of such identification may have the opposite effect and undermine customer safety or create commercial implications for the operating business.
- 1.4** For this reason, the Council may, upon application, issue a dispensation to a proprietor to exempt them from displaying the vehicle's licence plate.
- 1.5** A vehicle can however only be despatched by a private hire operator and an application shall also need to be made by the operator, either separately or in support of a proprietor's application.
- 1.6** The Council has discretion whether or not to issue such dispensation and it is not intended that all private hire vehicle proprietors and operators should have access to this. The Council's discretion will be limited to the type of service where the display of a licence plate either endangers the safety of one or more members of the public travelling in the vehicle or restricts a legitimate business need. A legitimate business need is one which goes beyond a licence holder's or customer's 'preference'.

**2 Exemption Policy**

- 2.1** An exemption will only be granted where the applicant is able to satisfy the Council that:
  - (a) There is no public safety risk
  - (b) There is a legitimate business or service requirement
  - (c) The vehicle is suitable for the purposes outlined by the applicant
- 2.2** The Council does not think it is appropriate to specify the types of use that it considers would show a legitimate business or service need. Each application will be assessed on its own merits. An applicant is expected to show an identified customer base who wish to use the vehicle without the display of a licence plate. This may be done either by the provision of the relevant contracts or booking allocations or the applicant's own market research.

- 2.3** The Council would ordinarily expect the applicant for a plate exempt vehicle to be despatched by a private hire operator exclusively operating the vehicle applied for (and, if applicable, other vehicles) solely for business use stated. The Council will consider very carefully whether to permit a vehicle to be used for both “plate exempt” and regular private hire work and would need absolute confidence that the proprietor and operator have systems in place to prevent any risk to the public.
- 2.4** The value, prestige and quality of the vehicle to be used will be part of the Council’s consideration but the overriding factor will be the status of the passenger and the executive nature of the service provided that will indicate whether or not the dispensation should be granted.
- 2.5** It is expected that there will be a contract between the customer and the operator for a service that is of a standard and class that is well beyond that which would be expected on a standard private hire journey. The absence of the vehicle licence plate will either be an express or implied term of that contract.
- 2.6** The type of work likely to be considered acceptable for the grant of a dispensation include:
- (a) contracts with senior personnel of large companies to carry a managing director or their clients;
  - (b) contracts with national or local government, or similar agencies, to carry senior personnel and guests on official business;
  - (c) the carriage of well-known personalities such as ‘sports’ or ‘pop’ stars;
  - (d) the carriage of the bride and/or groom to a wedding.
- 2.7** This list is indicative, but not exhaustive. It is expected that the above type of clients require the use of a vehicle without private hire markings in order to either not draw attention to themselves or to give a more refined impression of their business.
- 2.8** Vehicles used will normally be of the type that indicates that the customer requires a service beyond that of a normal private hire journey. The types of vehicles that would normally be considered for a dispensation would be:
- (a) Mercedes Benz
  - (b) BMW 7 Series
  - (c) Jaguar XJ SWB and LWB
  - (d) Rolls Royce
  - (e) Bentley
  - (f) Lexus GS
  - (g) Audi A8
- 2.9** The above list is indicative only. ‘Lesser’ vehicles than those stated above would not normally be booked by a customer who would be concerned about a whether or not the plate was displayed. However, a lesser vehicle may be acceptable dependant on the nature of the business and customers. This is something that the applicant would need to satisfy the Council of.
- 2.10** Where a dispensation is granted the vehicle will be conditioned not display any other signage that is not legally required. This this would be contrary to the purpose of removing the plate. Drivers of vehicles that have been granted dispensations will be expected to be dressed smartly i.e. suit and tie, tailored dress etc.

**2.11** When determining the type of work that would not be suitable, the Council will consider what the expectation of the customer will be – is there an expectation that the vehicle will be of a high class and without a plate; and the risk to the safety of the passengers if the vehicle could not be identified as a licensed vehicle.

**2.12** The type of work that will not be considered from the grant of a dispensation will include:

- a. Council 'school contract' work;
- b. Journeys to airports, seaports or railway stations,
- c. Theatre journeys or sporting events
- d. 'Hen' and 'Stag' nights and similar.

### **3 Operators of Plate Exempt Vehicles**

**3.1** The despatch of a plate exempt vehicle can only be done by a private hire operator and the Council will require an application for a plate exempt vehicle to enclose a supporting statement or other confirmation from the relevant operator (except where the proprietor is also the operator) that they can operate the vehicle in compliance with the conditions set out below.

**3.2** Operators who despatch both "plate exempt" and "plated" vehicles will need to satisfy the Council that they have provisions in place to ensure that plate exempt vehicles will not be used for general work.

**3.3** Operators are expected to take measures to ensure that plate exempt vehicles are operated responsibly and for the purposes of providing a service to a customer who legitimately requires the vehicle to provide without the display of a private hire plate or signage.

**3.4** All bookings for a private hire vehicle are contractual in nature, between the customer and the operator. It is therefore expected that a plate exempt vehicle is only despatched to a customer who has either expressly requested such a vehicle or the Operator is reasonably satisfied that it is an implied requirement of the customer, that the vehicle is provided without the display of a plate.

**3.5** The Council shall, in the first instance, allow the operators who it has deemed to be "fit and proper" to manage how they satisfy themselves that a plate exempt vehicle is suitable to be despatched. The operator may rely on express terms in written contracts, or the implicit requirement obvious from the circumstances or nature of the booking.

**3.6** The Council's expectation is that plate exempt vehicles are despatched to customers who either benefit commercially (including by reputation) from travelling in a vehicle with a certain prestige or to customers who for reasons of safety require a vehicle not to be identified as a hire vehicle. Plate exempt vehicles should not be despatched to 'ordinary members of the public' for common and routine journeys.

**3.7** When identifying if a plate exempt vehicle is suitable for a journey the Council would suggest that operators consider the following:

- (a) Would the customer have refused to travel, or have been reasonably upset with the operator or refused to pay, if the vehicle provided was plated;
- (b) By the implicit nature of the booking did the customer reasonably require a specific make/model or type of vehicle to convey them; or a specific level of service;
- (c) In relation to the pick up and drop off points of the journey would it be reasonable for the vehicle to be provided without a private hire plate.
- (d) Is the cost of the journey such that it indicates the customer expected and was prepared to pay for a higher level of service.

**3.8** As an example, a customer who is not known to the operator requesting an immediate pick up from their home to a restaurant and being charged the operators standard fare could not be reasonably said to require a plate exempt vehicle. An operator despatching a plate exempt vehicle in this regard would not be considered to have done so responsibly unless there is clear evidence that the customer wanted a plate exempt vehicle. However, if the customer was known to the operator as a high value client or specifically requested a certain type of luxury vehicle, the operator may reasonably satisfy itself that a plate exempt vehicle is required

## **4 Enforcement and Sanctions in respect to Plate Exempt Vehicles**

- 4.1** The issuing of a dispensation is a discretionary measure that the Council will grant in order to assist certain businesses in providing a particular service from which they may charge a premium. By doing so, the Council expects those who benefit from its trust and receive a dispensation to act responsibly.
- 4.2** Breaches of requirements set out in this appendix will almost certainly result in the dispensation being withdrawn as a minimum.
- 4.3** Breaches that create a public safety risk, for example where a vehicle granted a dispensation has been used to carry out “non-exempt”, or non-exempt work being carried out without the plate being displayed, will be treated more seriously.
- 4.4** Proprietor, Operator and driver licences may be reviewed, suspended and revoked if the use of a plate exempted vehicle has undermined the Councils trust in granted the dispensation or posed a risk to public safety.

## **5 Conditions to be imposed on plate exempt vehicles and their operators**

- 5.1** Where a vehicle is granted a dispensation the following additional conditions will apply to an Operator of such vehicles:
  - 1. A licensed private hire vehicle granted an exemption from displaying its private hire plate may only be despatched in fulfilment of a booking where the operator is reasonably satisfied that the customers expectation, whether express or implied, is for a hire vehicle to be provided without the display of a private hire plate or any private hire signage.
  - 2. The hirer must be advised in advance of the journey of the make, model and registration of the vehicle to be dispatched to them and that it will be unmarked and will not display the standard private hire vehicle licence plates.

**5.2** The following conditions will be imposed on any licence granted to a vehicle:

1. Upon the application of the proprietor, conditions 15, 16 and 17 of the Council's standard private hire vehicle conditions (requiring the display of a plate) shall not apply.
2. The vehicle shall not display any external markings, signage, logo's or advertising.
3. The proprietor shall ensure that at all times the vehicle will display a sticker indicating that the vehicle is a licensed private hire vehicle with Hertsmere Borough Council on the front window screen and in such position as may be directed by an officer of the Council.
4. The proprietor shall ensure that the internal and external private hire licence plates are carried within the vehicle at all times.
5. A copy of the private hire vehicle paper licence and the exemption notice must be carried within the vehicle at all times and made available for inspection upon the request of a Licensing Officer of Hertsmere Borough Council, a police officer, or, where located in the controlled district of another authority, an officer of that authority.
6. If the licensed vehicle is also permitted by the Council to also carry out work not covered by the dispensation the proprietor must ensure that the vehicle displays its private hire vehicle licence plates in accordance with its licensing conditions.
7. Where the proprietor of the vehicle is not also the driver, the proprietor shall ensure that the driver of the vehicle is given all reasonable instruction and information to comply with the above conditions and shall be responsible for any breach by the driver.

**PRIVATE HIRE DRIVER LICENCE CONDITIONS**

**All individuals granted a licence to driver a private hire vehicle under the Local Government (Miscellaneous Provisions) Act 1976 by Hertsmere Borough Council shall be subject to the following conditions:**

**The Licence and the Badge**

1. This Licence is granted subject to the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and is for the benefit of the named Licensee only and not transferable.
2. The Licensee shall at all times when acting in accordance with the Licence wear in such position as to be plainly and distinctly visible the Badge issued by the Council.
3. Neither the Licence nor the Badge shall be defaced or altered in any way and must be produced by the Licensee on demand to any officer of the Council or the Police and returned to Council on its expiry, revocation, suspension, or renewal be returned to the Council.
4. The Licence shall expire on the date stated on the front on the front of the Licence but may be renewed by the Licensee by way of application made to the Council before the expiry date.

**When to notify the Council**

5. The Licensee must notify the council within 48 hours of any arrest, charge, grant of bail (conditional or unconditional), caution or conviction, relating to any sexual offence or offence involving violence or dishonesty.
6. Notwithstanding the above, the Licensee must notify the council within 7 days of any of the following:
  - a. being convicted for any criminal or road traffic offence (including fixed penalty offences).
  - b. Any grant of bail to the driver (conditional or unconditional) by any court or police station.
  - c. Any court cases pending against the driver.
  - d. Whether the driver has been cautioned or received an official warning from the police.
7. The Licensee must inform the Council, in writing, within 7 days of any change to the Licensees name and/or address.
8. The Licensee must inform the Council immediately of any loss, damage, defacement or destruction to the Licence or Badge and forthwith apply for the issue of a replacement licence and pay such administrative fee as maybe set by the Council.

9. The Licensee must notify the Council if they intend to leave the United Kingdom for, or have been outside of the United Kingdom for, any period of 6 months.

### **Documents to be provided to the Council and kept up to date**

10. The Licensee must produce the following documents upon the request of, and within such reasonable timescale as may be stated by, a Council Officer:
- a. Proof of the licensees right to remain, reside and work in the United Kingdom as a licensed driver;
  - b. The Licensee's DVLA Driving Licence
  - c. Proof that the Licensee has registered their DBS Certificate with the DBS update service;
  - d. The Licensees enhanced DBS certificate and such other information as necessary to check via the DBS update service their up-to-date criminal record;
  - e. A DVLA shared driving licence code or the means for the Council to check the Licensees current DVLA licence record;
  - f. A medical certificate meeting the requirements of the Policy or such other information as may reasonably be requested.
  - g. Any other document that the Council may reasonably require to be produced to ensure that the Licensee remains a fit and proper person.
  - h. A certificate of good conduct from any other overseas territory in which the Licensee has resided in for 6 months or more since the grant of the Licence.

### **Medical fitness and health**

11. The Licensee shall ensure that they undertake a medical examination to the standard required by the Council and at such frequency as the Council may stipulate in its Policy and at any time upon the Council's reasonable request.
12. The Licensee shall not drive a licensed vehicle at any time when they are suffering from any disease, illness, injury, impairment or disability which would in the opinion of a reasonable person cause them or any vehicle driven by them to be a danger to the public.
13. The Licensee shall provide a specimen of breath, blood or urine as may be requested by an authorised officer of the Council at any time whilst the licensee is working in relation to a licensed vehicle in order to verify that they are not impaired by any substance, drug, medication or alcohol.
14. The Licensee shall notify the Council within 5 working days of the occurrence of any serious illness, injury or disability that affects their ability to drive a motor vehicle whether short or long term (for example, head injury, heart attack, stroke, broken limbs, diabetes, etc.).
15. Where the Licensee has been incapacitated by the occurrence of any illness, injury or disability and unable to notify the Council within 5 working days of its occurrence the licensee must notify the Council as soon as possible and no later than 5 working days of their recovery.

16. Where the Licensee has notified the Council of any disease, illness, injury, impairment or disability which they are suffering from, the licensee shall, if requested to do so, undergo an additional medical examination or produce written confirmation from their own medical practitioner or hospital consultant to satisfy the Council of their fitness.
17. The Licensee must ensure that their eyesight meets the standard set by the DVLA and shall undergo such examination by an optician as may be requested by the Council.

### **Duty to customers**

18. Where the Licensee has agreed to be despatched in a private hire vehicle by, and in fulfilment of a booking accepted by, a Private Hire Operator, the Licensee shall:
  - a. Punctually attend in the vehicle at the time and place specified in the booking;
  - b. Drive to the specified destination, by the shortest available route subject to any directions or request's that may be agreed with the hirer.
  - c. Not unnecessarily prolong in distance or time the journey for which the vehicle was hired.
  - d. Not eat or drink in the licensed vehicle whilst carrying passengers.
  - e. Not cause their licensed vehicle to remain stationary for a longer period of time than is necessary for the purpose of picking up or setting down passengers.
  - f. Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
  - g. Sign a legible receipt for the hiring stating the date, pick up and drop off locations, the fare paid and the operator and provide this to the customer upon request.
  - h. Immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left therein by a person having been conveyed in that vehicle.
19. When required to do so by any person who has booked the vehicle through a private hire operator the Licensee shall convey a reasonable quantity or weight of luggage and shall ensure that:
  - a. Luggage is stored safely within the vehicle and in such manner that does not present any danger or injury to passengers;
  - b. Luggage is stored in a manner that does not prevent the Licensee from operating the vehicle safely;
  - c. Luggage is not stacked higher than the height of the rear passenger seats unless the vehicle is fitted with suitable luggage restraints or covers to prevent luggage from entering the passenger compartment.
  - d. Reasonable assistance is afforded to customers when loading and unloading luggage
  - e. Reasonable assistance is afforded to customers when carrying luggage to or from the entrance of any residence, station, airport or other place at which a passenger may be collected or set down.



## **Conduct**

20. The Licensee shall:
- a. Have due regard to the Council's code of conduct and dress code
  - b. At all times be smart, clean and respectable
  - c. Behave in a polite, civil and courteous manner to passengers and other members of the public and road-users alike.
21. The Licensee shall not:
- a. Accept any person as a passenger into a private hire vehicle that they are driving unless that passenger or someone on that passengers behalf has previously pre-booked the journey through the business premises of a Hertsmere Borough Council Licensed private hire operator.
  - b. Seek to entice any person to hire their vehicle by any means of touting;
  - c. Use the services of any person touting for customers to use licensed vehicles;
  - d. Use any mobile devices including phones, tablets, laptops or any similar item whilst driving;
  - e. Use a hands-free kit whilst conveying a passenger;
  - f. Smoke, or permit to be smoked, any cigarette, electronic cigarette or similar device in a licensed vehicle;
  - g. Make any recording of any image, sound or other information relating to a member of the public via any form of recording device, except where done so for lawful purposes;
  - h. Retain, publish or distribute any lawful recording made, other than for purposes of providing it as evidence the Police, Council or other authorised agency.
  - i. Park their vehicle at such 'public' locations or positions whereby the vehicle's appearance makes it look like the vehicle is available for immediate hire or wait / park in a location which may encourage an approach from a member of the public to enquire as to the vehicle's availability for hire.
  - j. The licensed driver shall not park / position his / her licensed vehicle in such a manner as to cause obstruction on a public highway.

### **Licence Holders duty to those with disabilities or who are vulnerable**

22. The Licensee shall not refuse to carry an assistance dog unless prior to such refusal the Licensee has been granted an exemption by the Council.
23. The Licensee is not permitted to make any additional charge for carrying an assistance dog and must allow the assistance dog to remain with the passenger in the vehicle.
24. The Licensee shall not refuse a passenger with a dog unless the Licensee has taken reasonable steps to ensure that the passenger does not have a disability and that the dog is not an assistance dog.
25. The Licensee must take all reasonable steps to assist a passenger where the licensee knows, or should reasonably be expected to know, that the passenger

has, or may have, a disability and provide all reasonable assistance to ensure that the passenger can complete the journey booked.

26. Where a passenger is in a wheelchair and can transfer out of that wheelchair and into the vehicle driven by the Licensee, the Licensee shall ensure that the wheelchair is folded and safely stowed or carried within the vehicle and shall give such reasonable assistance to passenger entering and departing the vehicle.
27. Where the Licensee is unable to convey a passenger with a disability or a passenger who is vulnerable due to circumstances beyond the control of the Licensee, the Licensee shall take such measures as is reasonable to arrange appropriate transport for that passenger and where necessary remain with the passenger until such transport attends.

### **Licensees duty in respect to the vehicle that they drive**

28. When driving a licensed vehicle in accordance with this Licence the Licensee shall ensure that the licensed vehicle plates are affixed securely to the vehicle and displayed in such manner as may be specified by the Council.
29. The Licensee shall ensure that when driving a licensed vehicle they are aware of and comply with, the conditions of that vehicle's licence, whether they are proprietor of that vehicle or not.
30. The Licensee shall not carry more than the maximum number of passengers for which the vehicle is licensed.
31. The Licensee shall not drive a licensed vehicle for the purposes of conveying passengers at any time in which the vehicle is in such condition that it would fail an MOT, is in breach of the relevant construction and use regulations governing the vehicle or does not comply with the Council's Policy set out in Annex C.
32. The Licensee shall not use any mobile devices including phones, tablets, laptops or any similar item whilst driving and, even where lawful, shall not use a hands-free kit whilst conveying a passenger.
33. The Licensee must comply with the Road Traffic Act, Highway Code and Road Traffic Regulations at all times in order to ensure the safety of the public and must carry out or undertake any activity whilst driving which may distract them from, or impair their ability to, drive safely and comply with aforesaid regulations.
34. The Licensee shall ensure that any licensed vehicle that they drive complies with requirements of the Health Act 2005 and its subordinate legislation and ensure that no person, including the Licensee, smokes in a licensed vehicle and correct signage is displayed on that vehicle when licensed.
35. The Licensee shall not smoke an electronic cigarette or similar device in a licensed vehicle and shall ensure that no other person does so in respect

## **Licensees duty following an accident**

36. If the Licensee is involved in any accident or incident whilst driving a licensed vehicle, or is aware of any damage to a Licensed Vehicle, whether or not in the opinion of the Licensee it materially affects the safety, performance, appearance or comfort of persons using the vehicle, the Licensee must:
  - a. Report the matter to the Council, as soon as reasonably practicable and within 72 hours of the accident/incident or damage occurring;
  - b. Report the matter to the Proprietor of the vehicle (if not the licensee);
  - c. Report the matter to the Operator of the vehicle (if not the licensee).
37. If the Licensee is involved in a road traffic accident or any incident involving another vehicle the Licensee must give all details required by Law to the other party, such as the name and contact details of the Licensee, vehicle proprietor and insurance.
38. Where the Licensee has reported an accident to the Council, the Licensee shall not use the vehicle without the further approval of a Licensing Officer.
39. Where the Licensee is involved in an accident that shall prevent the commencement or conclusion of a journey the Licensee shall take such steps as necessary to assist the passenger in obtaining alternative transport.

## **To Provide copy of this licence to Operator**

40. The Licensee shall deposit copies of their Hertsmere Borough Council Private Hire drivers' licence, DVLA driving licence, Vehicle licence, MOT, insurance certificate and any other document that the operator may reasonably require, in order for the operator to comply with the conditions of its operator licence. The driver is entitled to be reasonably satisfied by the operator that any information and data provided shall be kept in securely and in compliance with the provisions of data protection legislation.
41. The Council reserves the right to update and amend these licence conditions in writing to the Licensee with at least 21 days' notice, which may be by letter, email, notice on its website or other electronic means

## **Interpretation**

**"Licence"** means this licence issued to the licensee under section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

**"Licensee"** means the person named on the Licence and who has been granted a private hire drivers licence by the Council.

**"Council"** means Hertsmere Borough Council.

**"Badge"** means the badge issued with the licence by the Council pursuant to Section 54(1) of the Local Government (Miscellaneous Provisions) Act 1976.

**"Policy"** means the Council's adopted private hire and hackney carriage vehicle licensing Policy.

**"DVLA"** shall mean the Driver and Vehicle Licensing Agency.

**"DBS"** shall mean the Disclosure and Barring Service and **"DBS certificate"** shall mean the Enhanced disclosure required by the Council under the provisions of its Policy.

### VEHICLE LICENCE CONDITIONS

**The following conditions shall be attached to all vehicles licensed as either a private hire vehicle or a hackney carriage vehicle.**

1. This Licence is granted to the Proprietor in respect to their application for a private hire or hackney carriage licence for the vehicle identified in that application and provided that the vehicle met and shall continue meet the vehicle standards and specifications set out in Appendix C of the Council Policy.
2. All details recorded on this licence and those provided to the Council at the time of application for the licence must remain accurate and up to date at all times and in the event of any change, or loss or damage, to this licence the Proprietor must notify the Council immediately and pay the administrative cost demanded by the Council for a replacement licence to be issued.
3. The Vehicle shall not be used at anytime when it does not comply with the requirements of Annex C of the Council's Policy, the details recorded on the face of this licence or these licence conditions unless otherwise approved by an authorised officer of the Council.
4. The Proprietor must notify the Council within 7 days of any change to the Proprietors name and address.
5. This licence cannot be transferred by the Proprietor to any other person without the approval of the Council.
6. The Proprietor must notify the Council no later than 14 days after any transfer in the Proprietors interest or ownership.
7. Notwithstanding the above, if at any time the Proprietor allows the Vehicle to be under the control of another person, whether that is due to the ownership of the vehicle being transferred or otherwise, the Proprietor shall notify the Council immediately if the vehicle is likely to be used, or capable of being used as a licensed vehicle or will reasonably appear to the public as a licensed vehicle.
8. The Proprietor must notify the Council in writing no later than 14 days of any criminal cautions or convictions (including any motoring offences and fixed penalties), Court Orders injunctions, community protection notices, County Court Judgments, High Court Judgements and Fixed Penalty Notices imposed upon him or her, (or in the case of a company or partnership, on any of the directors or partners).
9. The Proprietor must notify the council within 48 hours of any arrest, charge, grant of bail (conditional or unconditional), caution or conviction, relating to any sexual offence or offence involving violence or dishonesty.
10. The Proprietor shall not permit the Vehicle to be licensed by any authority other than Hertsmere Borough Council as a private hire or hackney carriage vehicle.
11. The Proprietor shall ensure that the Vehicle does not carry more than the maximum number of passengers specified by the licence and as indicated on its plate.
12. The Proprietor of the vehicle shall supply to the operator and/or driver of the vehicle, such details and information as they may require such as insurance and MOT / Pass Test Certificate as may be reasonably required by the operator or driver.

13. The Proprietor shall not permit the Vehicle to be used at any time by a driver, nor despatched by an operator at any time when the Proprietor knows, or should know, that the Vehicle is not in compliance with any statutory provision or licence condition.
14. If at any time the Proprietor of the Vehicle does not intend to use the Vehicle for the purpose for which it is licensed for a period of 28 days or more, the Proprietor shall notify the Council and shall, if requested, return the licence plates.

### **Display of Plates**

15. The Proprietor must ensure that the Plate provided to them by the Council that identifies the Vehicle as licensed vehicle shall be affixed externally to the rear of the Vehicle, on or adjacent to the rear bumper, or in such other position as may be approved or directed by the Council, so as to be distinctly visible and readable by the public.
16. The Proprietor shall not cause or permit the Vehicle to be used without the plate affixed to it in the manner outlined above or at any time when the plate is in such condition that any figure or identifying feature is illegible.
17. The proprietor shall ensure that the interior licence provided to them by the Council is displayed inside the vehicle in such a position so as to be visible at all times to persons conveyed in the vehicle and/or in such manner as may be directed by the Council.

### **Insurance**

18. The Proprietor shall ensure that at all times the vehicle, its driver and any passengers conveyed are covered by a policy of insurance which satisfies the requirements of Part VII of the Road Traffic Act 1988 for hire and reward and where the vehicle is a:
  - a. Private hire vehicle, it is covered for the activity of private hire only
  - b. Hackney carriage it is covered for the purpose of public hire.
19. The Proprietor must produce the certificate of insurance within 72 hours of any request by an officer of the Council or Police officer and within 72 hours of any change to the insurance policy applicable to the Vehicle.
20. The Proprietor shall not cancel, nor cause or permit the cancellation of, the Vehicles insurance policy unless ensuring that the vehicle is not used for licensed purposes.
21. Where the Proprietor chooses to pay for a policy of insurance by instalments under an arrangement with an insurance company or broker, the Proprietor remains responsible for ensuring that the policy of insurance continues to have effect at all times in line with any agreement made unless the Vehicle ceases to be used as a licensed vehicle.
22. Where the Proprietor is aware, or should reasonably be aware, that the insurance certificate held has been cancelled or has expired, or is due to be cancelled or expire, the Proprietor shall ensure that the vehicle is not used for licensed purposes until a new insurance certificate has been obtained and been provided to the Council.

### **Vehicle Maintenance, Condition and Damage**

23. The Proprietor of the Vehicle shall ensure that at all times the Vehicle is in compliance with all relevant statutory requirements applicable to the class of vehicle to which it belongs, including, but without prejudice to the Motor Vehicle (Construction and Use) Regulations and the relevant vehicle specifications set out in Appendix C of the Council's Policy and shall not use the Vehicle at any time when the Vehicle would not pass an MOT and/or the Council's Statement of Compliance.

24. No material alteration or change in the specification, design, condition, or appearance of the vehicle may be made to the vehicle once licensed without the approval of the Council.
25. The Proprietor must inform the Council as soon as reasonably practicable and, in any case within 72 hours, of any damage to the vehicle affecting the safety, performance or appearance of the vehicle.
26. The exterior of the vehicle shall be maintained in a clean and safe condition at all times and shall:
  - i. be free of dents;
  - ii. be free of visible rust;
  - iii. be free of unrepaired accident damage;
  - iv. have uniform paintwork equivalent to that applied by the manufacturer;
  - v. be maintained in an acceptable state of cleanliness,
27. The interior of all licensed vehicles shall be maintained in a clean and safe condition at all times. In particular, the interior of the vehicle shall:
  - vi. be free of all stains to the upholstery,
  - vii. be free of all splits and tears to the upholstery,
  - viii. be maintained in an acceptable state of cleanliness, and
  - ix. provide seats functioning in accordance with the Original Manufacturers' Specification.
28. All lights, doors, door locks, seat belts, boot / tail gate and locks, bonnet, hinges and catches, windows, sunroofs and hoods should be operating correctly.
29. The vehicle shall at all times safely carry in a reasonably accessible manner the following items, which must be maintained in a useable condition and within any expiry or recommended date:
  - a. A minimum 1kg dry powder Fire Extinguisher meeting British Standard EN3
  - b. A first aid kit meeting the requirements of BS 8599-2 (Medium Motorist First Aid Kit)
  - c. A warning triangle compliant with the Highway code.
30. Any radio equipment, taxi meter, PDA, Sat Nav or similar device shall not be kept in the vehicle in such manner to obscure, impair or distract the driver and must be secured in such manner to prevent it becoming loose whilst driving.
31. Citizen Band (CB) transmitter/receiver or similar radio scanning devices are not permitted.

### **Safe storage of luggage**

32. The boot of the vehicle shall be kept reasonably clear and suitable to carry a reasonable amount of luggage and shall contain no unnecessary items other than essential tools and / or spare parts for the reasonable maintenance and repair of the vehicle such as the storage of a spare wheel.
33. All luggage stored within the vehicle shall be done so safely and risk assessed to prevent any danger or injury to passengers. Where the driver of the vehicle is not the proprietor the proprietor is responsible for ensuring that the driver complies with this condition.
34. Luggage in the boot must not be stacked higher than the height of the rear passenger seats unless the vehicle is designed, or fitted with suitable luggage restraints or covers to prevent luggage from entering the passenger compartment.

35. Luggage must not be stored in such way as to prevent the driver from operating vehicle safely and in compliance with the relevant national legislation.

**Signs Notices adverts etc,**

36. The Proprietor shall not permit to be displayed on, in, or from the licensed vehicle any signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices except for any notice or sign that:
- a. Is required by any statutory provision
  - b. Is required by these licence conditions
  - c. Indicates membership of a motoring organisation, or;
  - d. Is an approved door sign in line with the condition below.
37. A private hire vehicle may display a door sign stating the name and/or logo of the private hire operator through which the vehicle can be booked, the means to book the vehicle and that the vehicle must be booked in advance.
38. No signage is permitted on a private hire vehicle that shall indicate that it is available for immediate hire.

Additional Conditions applicable to a Hackney Carriage

The Proprietor and Driver of a Hackney Carriage shall comply with the Council's adopted Byelaws in full. These byelaws should be read and understood by both the Proprietor and Driver.

Additional Conditions applicable to a plate exempt vehicle

The conditions set out in Appendix E of the Council Policy shall apply.

**"The Proprietor"** shall mean the person named on the face of the licence who has been granted this licence further to their application. Where there is more than one Proprietor named on the licence the term shall mean both equally and severally.

**"The Vehicle"** means the vehicle named on the face of the licence as identified in the application made by the Proprietor.

**"The Driver"** shall mean any person who the Proprietor has allowed to drive the vehicle.

**"Licence"** means this licence issued to the Proprietor under section 47 or 48 of the Local Government (Miscellaneous Provisions) Act 1976.

**"Council"** means Hertsmere Borough Council.

**"Plate"** means the plate issued with the licence by the Council pursuant to Section 48(5) of the Local Government (Miscellaneous Provisions) Act 1976 or Section 51 of the Town Police Clauses Act 1847.

**"Policy"** means the Council's adopted private hire and hackney carriage vehicle licensing Policy.

**OPERATOR LICENCE CONDITIONS**

**LICENCE CONDITIONS APPLICABLE TO PERSONS GRANTED A PRIVATE HIRE OPERATOR LICENCE UNDER THE UNDER LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

1. This licence is issued to the person(s) named on the licence to make provision for invitation and acceptance of bookings at, and for the despatch of private hire vehicles from, the premises stated on the licence ("The Licensed Premises").
2. The Licence is not transferable and shall subsist for the benefit of the named Licence holder ("The Operator") when trading from The Licensed Premises, under such trading name as provided to the Council on application.

**Reporting of allegations or convictions in respect to criminal matters**

3. The Operator shall notify the Council in writing of any caution(s) and / or conviction(s) imposed on him / her including DVLA Licence endorsements during the period of the Licence as soon as possible and in any event within 7 days of such caution(s) / conviction(s) being imposed.
4. Notwithstanding the above, the Operator must notify the council within 48 hours of any arrest, charge, grant of bail (conditional or unconditional), caution or conviction, relating to any sexual offence or offence involving violence or dishonesty.
5. The Operator shall be required to provide to the Council a basic criminal record disclosure each and every year, calculated from the date of grant of the licence, except where the Operator is also a licensed driver and currently registered on the DBS update service.
6. Where the Operator is an individual the above conditions shall apply only to that individual. Where the Operator is a company, the above conditions shall apply to each and every director of that company and any person who is in a position of managerial control or authority over the private hire operations of the company.

**Private Hire Bookings Only**

7. The Operator shall not accept any person as a passenger in a private hire vehicle despatched under the terms of this licence unless the passenger or someone on behalf of the passenger, previously requested the hiring by telephone, letter, email, text, personal call to licensed premises of the proprietor or by some other electronic communication means designed or used by the Operator for the purpose of inviting and accepting private hire vehicle bookings.
8. The Operator shall not by calling out or otherwise, entice any person to hire a vehicle and shall not make use of the services of any other person for that purpose.
9. The Operator shall not encourage drivers to wait in a licensed vehicle without a booking at any public location or position or in such other manner as may indicate that the vehicle is available for immediate hire.

**Sub-contracting**

10. Where the Operator chooses to Sub-Contract a booking to, or accept a sub-contracted booking from, another licensed private hire operator, the Operator shall:
  - a. Record the details of the operator to whom a booking is sub-contracted to, prior to the vehicle being despatched or;



- b. Record the details of the operator from whom the booking was sub-contracted from prior to the vehicle being despatched.
11. The Operator remains responsible for ensuring that any other licensed private hire operator they sub-contract from or to are correctly licensed and insured.
  12. The Operator shall advise the customer that they have sub-contracted the booking to another licensed operator, give the details of that licensed operator to the customer and confirm that despite the sub-contract, the Operator remains responsible for the performance of the customers booking.

### **The premises**

13. The Operator is responsible for ensuring compliance with all other legislative provisions applicable to the Licensed premises. This includes, but is not limited to:
  - a. Planning and building control permissions,
  - b. Health and Safety at Work Act 1974;
  - c. Health Act 2006 (No smoking)
  - d. Gambling Act 2005 (No gaming machines)
14. Where the Licensed Premises, or any part of the premises, is open to members of the public to enter the operator shall:
  - a. Display this licence in a prominent position where it can be viewed by members of the public;
  - b. Make available these conditions for inspection upon request.
  - c. Ensure that the premises are kept clean, adequately heated, lighted and ventilated
  - d. Ensure any passenger waiting area that is provided has adequate seating facilities and is kept separate from any drivers rest area.
15. The Operator shall notify the Council in writing as soon as possible and no later than 7 days of any change(s) to the trading name of the business, or the name or address of the Operator or any directors or partners.
16. The Operator shall notify the Council in writing of any change to the means by which the provision for inviting or accepting bookings will be made, such as changes to telephone number(s), website, email, or smart phone application.

### **Customer service**

17. The Operator shall provide a safe, efficient, and reliable service and ensure that when a private hire vehicle has been booked it is:
  - a. Licensed by Hertsmere Borough Council and driven by a Hertsmere Borough Council driver;
  - b. Despatched to ensure the driver and vehicle attend punctually at the appointed time and place;
  - c. As far as the operator can reasonably be expected to control in compliance with all legislation and Council conditions
  - d. Not unreasonably delayed or prevented from attending at the time requested or completing its journey;
18. Where a customer's journey has been delayed or prevented by unforeseen causes, or unfinished due to vehicle breakdown, the Operator shall inform the customer as soon as possible and make such arrangements as necessary to fulfil the customers booking.
19. The Operator and any booking staff shall not refuse a booking or otherwise discriminate against a member of the public either directly or indirectly on the grounds of gender, age, marital status, social class, race colour, ethnic or national origin, religion, disability or sexual orientation.

20. The Operator is not permitted to despatch any vehicle that is not a private hire vehicle licensed by Hertsmere Council under the terms of this Licence.
21. Where the Operator chooses to act separately to its role as a licensed Private Hire Operator to despatch a Hackney Carriage or Public Service Vehicle the Operator shall notify the customer that the vehicle despatched to them shall not be a private hire vehicle licensed by the Council and provide the customer with the relevant details as to the vehicle that shall be despatched to them.

### **Signage**

22. The Operator shall not permit any licensed vehicles operated by them to carry any advertisements in relation to the operator's business save for any sign that states:
  - a. The private hire operator name
  - b. The telephone number or other means by which bookings can be accepted
  - c. The words /Advanced Booking Only', 'Pre-Booked', or similar.
23. The Operator shall not advertise their business in any published form or any vehicles operated with the use of, or reference to, the words "Taxi" or "Cab" whether singular, plural, or as part of another word or any similar words with the intention of giving the impression their vehicles can be hired without being pre-booked.

### **Records of bookings, drivers and vehicles**

24. In response to any booking made the Operator must, prior to the despatch of a licensed private hire vehicle, record the following:
  - a. The time and date of the booking
  - b. The time; date and location of pickup point
  - c. The destination;
  - d. The name of the hirer or other identifying mark of the hirer such as a reference number and contact details;
  - e. The fare quoted
  - f. How the booking was made or received
  - g. The vehicle despatched and the driver driving it.
25. The Operator shall keep comprehensive records of all licensed drivers despatched by the Operator in a private hire vehicle:
  - a. The driver's full name;
  - b. Current address;
  - c. Telephone number mobile and home;
  - d. Copy of the DVLA driving licence;
  - e. Copy of the Hertsmere BC issued private hire driver licences;
  - f. The date the driver first began to be despatched by the operator and subsequently the date they ceased to be operated;
26. The Operator shall keep comprehensive records of all licensed private hire vehicles despatched by the Operator and which must include:
  - a. Vehicle details: make, model, colour, registration number;
  - b. Vehicle identification documentation i.e. MOT, insurance certificate(s) / cover notes – copies of these documents must demonstrate continuing insurance cover;
  - c. The date when the vehicle was first operated and any date they ceased to be operated.
  - d. The last date of the monthly inspection of that vehicle.
27. Where it is convenient for the operator to do so, the records required by conditions 16 and 17 may be recorded as one and the condition in 15(g) may be fulfilled by reference to either the driver, vehicle or drivers call sign provided that it is accurate to easily identify at all times the individual driver and vehicle despatched by an operator in respect to a booking.

28. Records be kept for a minimum of 12 months but may be in any manner that the Operator chooses subject to being able to provide all the information required by these conditions in a legible, accessible and understandable form and which can be produced upon the request of an authorised Council Licensing officer or police officer without delay;

### **Complaints Policy and Procedure**

29. All complaints made to the Operator must be recorded and the record of complaints must be retained for at least 12 months in a legible, accessible and understandable form which can be produced upon the request of an authorised Council Licensing officer or police officer without delay.
30. The Operator must have a Complaints Policy and procedure which can, on request, be provided to an authorised officer of the Council, Police, customer or the driver or proprietor of any vehicle operated by them, and which as a minimum shall ensure that the Operator will:
- a. Advise customers of their right to complain in writing to the Council about the conduct of a driver or fitness of a vehicle;
  - b. Advise customers to contact the Police where it is alleged that a criminal act has been or may have been committed;
  - c. In addition to the above, notify the Council and Police immediately where a complaint made to them about a driver alleges that the driver's conduct has been of a violent or sexual nature.
  - d. In addition to the above, notify the Council and Police immediately where a complaint made to them about a driver alleges that the driver's conduct may indicate a safeguarding risk to a child or other vulnerable person.
31. The Operator's complaints record should, as a minimum, record:
- a. The date and time of the complaint;
  - b. The contact details of the complainant (where provided);
  - c. The booking, vehicle or driver the complaint is in respect of;
  - d. The detail of the complaint
  - e. The action (if any) taken in respect of the complaint
  - f. Any advice to the customer to contact the Police and/or Council
  - g. Where the Operator has chosen to notify the Police and/or Council of the Complaint.
32. The Operator may choose to adopt its own disciplinary measures or procedures to apply to the drivers or vehicles that it operates, but as a minimum will take reasonable steps to monitor the number, nature and frequency of complaints made in respect to any driver or vehicle.
33. If the Operator chooses to no longer operate a driver, or has concerns that the driver may not be fit and proper, either due to the number or nature of complaints received by the Operator or for any other reasonable cause, the Operator must notify the Council and provide such information as the Council may reasonably request about the matter.

### **Lost property Policy and Procedure**

34. The Operator shall adopt a lost property policy and procedure which can, on request, be provided to an authorised officer of the Council, Police, customer or the driver or proprietor of any vehicle operated by them.
35. The Operator's policy shall include a suitable process to remind drivers to check for lost property after the termination of any booking and where they are unable to return any lost item to the rightful owner to be provide it to the Operator.
36. Any property found at the Operators premises or provided to the operator by a driver shall be recorded and kept for a period of 3 months, save for any perishable items which shall be kept for such reasonable time period as considered appropriate by the Operator.

37. The Operator shall take such steps as reasonable to identify the owner of any lost property in order to return it to the owner and shall record the return of any item to any person, their address and any identification or confirmation seen and keep such record for 3 months.
38. Where any property cannot be returned to its owner after a period of 3 months the lost property should be notified in writing to the Council's Licensing team who will either approve it to be destroyed or request that it be delivered to the Council offices.
39. If the lost property has significant value such as money, a phone or an Identity document as such as a passport or driving licence the item should be provided immediately to the nearest Police station or, if the Police are unable to accept the item, the Council Offices.
40. If the lost property is, or may be, unlawful or relate to a criminal activity, it must be taken to the nearest police station and a reference number obtained from the police and recorded by the Operator.

### **Staff employed in a Relevant Role**

41. The Operator shall adopt a criminal record policy for assessing the suitability of any person who is to be employed, engaged or permitted to act in a "Relevant Role", whether paid or unpaid, in which they receive bookings for private hire vehicles, despatch private hire vehicles or may otherwise have access to the personal data of customers or drivers.
42. The Operator shall request a basic criminal record check of any person acting in a Relevant Role, assess their suitability in line with the Operators policy and shall not allow any person to act in a Relevant Role without first being assessed as suitable.
43. The Operator shall keep a record of all individual who act in a Relevant Role, the date that person began to undertake the duties of that Relevant Role, the date of their criminal record, and the date they were assessed as suitable.
44. The Operator shall not, unless they have another lawful reason, retain the original or any copy, of a criminal record provided to them by a person undertaking a Relevant Role.

### **Data Protection Policy**

45. The Operator shall have a clear data protection policy setting out how the Operator shall use, retain or store customer details. This policy shall be provided to an authorised officer of the Council or police officer on request.

### **Vehicles operated**

46. The Operator shall exercise all due diligence to ensure that the vehicles operated under the terms of this licence are compliant with all relevant legal provisions and the Council's policy on vehicle standards and shall undertake and record a monthly inspection of the general condition of all licensed vehicles operated and such record shall be available for inspection by an authorised officer of the Council or police officer.
47. The details to be recorded are:
  - a. vehicle cleanliness and tidiness;
  - b. condition of bodywork / bumpers;
  - c. tread on tyres;
  - d. seatbelts;
  - e. windscreen washers and wipers;
  - f. all lights;
  - g. brakes / handbrake;
  - h. horn;
  - i. mirrors;
  - j. oil and brake fluid levels;
  - k. fire extinguisher / first aid kit
  - l. and any other items the Operator feels relevant;

48. It is for the Operator to develop their own standard format for the vehicle inspection log, so long as the above items are specifically covered.

### **Equality Act 2010 Policy - Assistance dogs and wheelchairs**

49. The Operator is a transport provider and obligated to comply with the provisions of the Equality Act 2010 and shall have in place a relevant policy setting out how they will comply with the provisions of the Act to ensure that no customer is discriminated against for any protected characteristic.
50. The Operator shall take reasonable steps ensure that no driver of a private hire vehicle operated and despatched by them unlawfully refuse to accept a passenger in a wheelchair or a passenger with an assistance dog.
51. The Operator shall not make any extra charge for carrying a passenger in a wheelchair or with an assistance dog and shall not permit any driver to do so.
52. The Operator shall not permit any driver to refuse to pick up a customer in a wheelchair or with an assistance dog save for where that driver has medical exemption issued by the Council.

Where an Operator is authorised to despatch vehicles that have been granted a dispensation from displaying their private hire vehicle plate pursuant to Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 the following conditions will apply.

53. A licensed private hire vehicle granted an exemption from displaying its private hire plate may only be despatched in fulfilment of a booking where the operator is reasonably satisfied that the customers expectation, whether express or implied, is for a hire vehicle to be provided without the display of a private hire plate or any private hire signage.
54. The hirer must be advised in advance of the journey of the make, model and registration of the vehicle to be dispatched to them and that it will be unmarked and will not display the standard private hire vehicle licence plates.

**“The Operator/Licence holder”** means the person named on the face of the licence granted to them in furtherance of their application for the licence. The terms shall, were appropriate, be construed to mean the individual licensed where the application has been made by and granted to an individual or sole trader or where the applicant is a company, to mean the company as a whole and/or any director or person in a managerial role.

**“The Licensed Premises”** means the premises named on the face of the licence as identified by its address, used for the invitation and acceptance of private hire bookings.

**“Licence”** means this licence issued to the Proprietor under section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

**“Private Hire Vehicle”** means any vehicle despatched by the operator in response to a booking or a vehicle licenced as a private hire vehicle by the Council.

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

**“Driver”** shall mean any person who drivers a Private Hire Vehicle despatched by the Operator.

**“Policy”** means the Council’s adopted private hire and hackney carriage vehicle licensing Policy.

**“Relevant Role”** shall mean any act or activity, whether paid or unpaid, which an individual may be employed or engaged in or otherwise permitted to undertake by the Operator that involves the individual receiving bookings for private hire vehicles, despatching private hire vehicles or otherwise having access to the personal data of customers or drivers.

**HACKNEY CARRIAGE BYELAWS**

The following byelaws were confirmed for the Hertsmere Borough Council by the Secretary of State and regulate Hackney Carriages and their drivers. The Council does not have the ability to change, alter or override any provision of these bye-laws by adopting or imposing any alternate Policy or Condition. They are included as an appendix to this Policy for completion and reference. Any contravention of the Byelaws is a criminal offences.

Made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875, by the Hertsmere Borough Council with respect to hackney carriages in the district of Hertsmere in Hertfordshire

**Interpretation**

1. Throughout these byelaws “the council” means the Hertsmere Borough Council and “the district” means Hertsmere in Hertfordshire.

**Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed.**

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

**Provisions regulating how hackney carriages are to be furnished or provided**

3. The proprietor of a hackney carriage shall:-
  - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
  - (b) cause the roof or covering to be kept water-tight;
  - (c) provide any necessary windows and a means of opening and closing not less than one window on the side;
  - (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with a proper carpet mat or other suitable covering;
  - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
  - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use and
  - (i) provide at least two doors for the use of persons conveyed in such a carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say:-

- (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the tariff fixed by the council;
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring and
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

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

- 5. The driver of a hackney carriage provided with a taximeter shall:-
  - (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - (b) before beginning a journey for which a fare is charged for distance, bring the machinery of the taximeter into action by moving the key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring and
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of hiring which is between half-an-hour before sunset and half an hour after sunrise, and also at any other time at the request of the hirer.
- 6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
- 7. The driver of a hackney carriage shall when plying for hire in any street and not actually hired:-
  - (a) proceed with reasonable speed to one of the stands appointed by Council resolution;
  - (b) if a stand, at the time of his arrival, is occupied by a full number of carriages authorised to occupy it, proceed to another stand;
  - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction and
  - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
- 8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not make use of the services of any other person for the purpose of importing any person to hire such carriage.
- 9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

10. The proprietor or driver of a hackney carriage who has agreed or has been hired in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place;
11. The proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such a carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. If a badge has been provided by the council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
  - (a) convey a reasonable quantity of luggage;
  - (b) afford a reasonable assistance in loading and unloading and
  - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such a person.

**Provisions fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares.**

14. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.  
 Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.
15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage in clearly distinguishable letters and figures.  
 (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

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

16. The proprietor or driver of a hackney carriage shall, immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein
17. The proprietor or driver of a hackney carriage shall if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
  - (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council and leave it in the custody of the officer in charge of the office on his giving a receipt for it and
  - (b) be entitled to receive from any person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

**Penalties**

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the standard scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefor.



## CRIMINAL OFFENCES

This appendix sets out the acts prohibited by statute and the commission of which would constitute a criminal offence. Any person found guilty of the offences set out below may be prosecuted by the Council and liable for a fine.

The levels of fine are currently as follows:

Level 1 - £200, Level 2 - £500, Level 3 - £1,000, Level 4 - £2,500

### Town Police Clauses Act 1847

Section	Offence	Maximum Penalty
40	Giving false information on an application for a hackney carriage licence.	Level 1
44	Failure to notify a change of address of a hackney carriage proprietor.	Level 1
45	Plying for hire without a hackney carriage proprietor's licence	Level 4
47	Driving a hackney carriage without a hackney carriage driver's licence.	Level 3
47	Lending or parting with a hackney carriage driver's licence	Level 3
47	Hackney carriage proprietor employing an unlicensed driver	Level 3
48	Failure by a hackney carriage proprietor to hold a hackney carriage driver's licence	Level 1
48	Failure by a hackney carriage proprietor to produce a hackney carriage driver's licence	Level 1
52	Failure to display a hackney carriage plate	Level 1
53	Refusal to take a hackney carriage fare	Level 2
54	Charging more than the agreed hackney carriage fare	Level 1
55	Obtaining more than the legal hackney carriage fare	Level 3 and 1 month's imprisonment
56	Travelling less than the lawful distance for an agreed hackney carriage fare	Level 1
57	Failing to wait after a deposit to wait has been paid	Level 1
58	Charging more than the legal hackney carriage fare	Level 3
59	Carrying other persons in a hackney carriage other than with the consent of the hirer	Level 1
60	Driving a hackney carriage without the proprietor's consent	Level 1
60	Allowing another to drive a hackney carriage without the proprietor's consent	Level 1
61	Drunken driving of a hackney carriage	Level 1
61	Wanton or furious driving of a hackney carriage leading to injury or danger	Level 1
62	Driver leaving a hackney carriage unattended	Level 1
64	Hackney carriage driver obstructing other hackney carriages	Level 1

### Local Government (Miscellaneous Provisions) Act 1976

Section	Offence	Maximum Penalty
46(1)(a)	Using an unlicensed private hire vehicle	Level 3
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence	Level 3
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed	Level 3

	driver	
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	Level 3
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle	Level 3
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver	Level 3
48(6)	Failure to display a private hire vehicle plate	Level 3
49	Failure to notify the Council of the transfer of a hackney carriage or private hire proprietor's licence	Level 3
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection, as required	Level 3
50(2)	Failure to inform the Council where the hackney carriage or private hire vehicle is stored, if requested	Level 3
50(3)	Failure to report an accident to the Council involving a hackney carriage or private hire vehicle	Level 3
50(4)	Failure to produce the hackney carriage or private hire vehicle proprietor's licence and insurance certificate	Level 3
53(3)	Failure to produce the hackney carriage or private hire driver's licence	Level 3
54(2)	Failure to wear a private hire driver's badge	Level 3
56(2)	Failure by a private hire operator to keep records of bookings	Level 3
56(3)	Failure by a private hire operator to keep records of private hire vehicles operated by him	Level 3
56(4)	Failure to produce a private hire operator's licence on request	Level 3
57	Making a false statement or withholding information to obtain a hackney carriage or private hire driver's licence	Level 3 + £10/day fine
58(2)	Failure to return a plate after notice given following expiry, revocation or suspension of a hackney carriage or private hire proprietor's licence	Level 3
61(2)	Failure to surrender a hackney carriage or private hire driver's licence after suspension, revocation, or refusal to renew	Level 3
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	Level 3
66	Charging more than the meter fare for a hackney carriage journey ending outside the District, without prior agreement	Level 3
67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle	Level 3
69	Unnecessarily prolonging a journey	Level 3
71	Interfering with a taxi-meter	Level 3
73(1)(a)	Obstruction of an Authorised Officer of the Council or a Police Officer	Level 3
73(1)(b)	Failure to comply with a requirement of an Authorised Officer of the Council or a Police Officer	Level 3
73(1)(c)	Failure to give information or assistance to an Authorised Officer of the Council or a Police Officer	Level 3

## Transport Act 1980

Section	Offence	Maximum Penalty
64(2)(a)	Driving a private hire vehicle with a roof sign which contravenes s64(1)	Level 3
64(2)(b)	Causing or permitting a private hire vehicle to be driven with a roof sign which contravenes s64(1)	Level 3

## Equality Act 2010

Section	Offence	Maximum penalty
<b>Passengers in wheelchairs</b> Section 165	Driver of a designated taxi or private hire vehicle failing to comply with the duties set out in relation to passengers in a wheelchair.	Level 3
<b>Assistance dogs in taxis</b> Section 168	Driver of a Hackney Carriage must carry an assistance dog and not make any additional charge for doing so;	Level 3
Section 170 (1)	The operator of a private hire vehicle commits an offence by failing or refusing to accept a booking if the reason for the failure or refusal is that a disabled person will be accompanied by an assistance dog.	Level 3
Section 170 (2)	The operator of a private hire vehicle commits an offence by making an additional charge for carrying an assistance dog.	Level 3
Section 170 (3)	The driver of a private hire vehicle commits an offence by failing or refusing to carry out a booking if the reason for the failure or refusal is that a disabled person will be accompanied by an assistance dog.	Level 3

## Health Act 2006

Section	Offence	Maximum penalty
<b>Section 6(5)</b>	Failure to display no-smoking sign in a smoke free premise or vehicle (occupier or manager)	<b>FPN</b> £150 (if paid in 15 days) £200 (if paid in 29 days) <b>Court:</b> Level 3
<b>Section 7(2)</b>	Person who smokes in a smoke free place or vehicle (any person smoking)	<b>FPN</b> £30 (if paid in 15 days) £50 (if paid in 29 days) <b>Court:</b> Level 1

**ENDORSEMENT CODES AND PENALTY POINTS**

Each endorsement has a special code and is given ‘penalty points’ on a scale from 1 to 11. You get more points for more serious offences. The table shows the offence codes that can be put on your driving record. It also shows how many penalty points you can get for them. Some offences may also involve a disqualification. Offence codes and penalty points stay on your driving record for 4 or 11 years depending on the offence.

**Accident offences**

These codes must stay on a driving record for 4 years from the date of the offence.

<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>
AC10	Failing to stop after an accident	5 to 10
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10
AC30	Undefined accident offences	4 to 9

**Disqualified driver**

Codes BA10 and BA30 must stay on a driving record for 4 years from the date of the offence.

<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6

Codes BA40 and BA60 must stay on a driving record for 4 years from the date of the conviction.

<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>
BA40	Causing death by driving while disqualified	3 to 11
BA60	Causing serious injury by driving while disqualified	3 to 11

**Careless driving**

Codes CD10 to CD30 must stay on a driving record for 4 years from the date of the offence.

<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>
CD10	Driving without due care and attention	3 to 9
CD20	Driving without reasonable consideration for other road users	3 to 9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9

Codes CD40 to CD70 must stay on a driving record for 11 years from the date of the conviction.

<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>
CD40	Causing death through careless driving when unfit through drink	3 to 11
CD50	Causing death by careless driving when unfit through drugs	3 to 11
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11

Codes CD80 and CD90 must stay on a driving record for 4 years from the date of the conviction.

<b>Code</b>	<b>Offence</b>	<b>Penalty points</b>
CD80	Causing death by careless, or inconsiderate, driving	3 to 11
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11

**Construction and use offences**

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Breach of requirements as to control of the vehicle, mobile telephone etc	3

### Reckless/dangerous driving

These codes must stay on a driving record for 4 years from the date of the conviction.

Code	Offence	Penalty points
DD10	Causing serious injury by dangerous driving	3 to 11
DD40	Dangerous driving	3 to 11
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11
DD80	Causing death by dangerous driving	3 to 11
DD90	Furious driving	3 to 9

### Drink

Codes DR10 to DR61 must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11
DR20	Driving or attempting to drive while unfit through drink	3 to 11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10

Codes DR40 to DR70 must stay on a driving record for 4 years from the date of the offence or 4 years from date of conviction where a disqualification is imposed.

Code	Offence	Penalty points
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4

### Drugs

These codes must stay on a driving record for 11 years from the date of the conviction.

Code	Offence	Penalty points
DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11
DG60	Causing death by careless driving with drug level above the limit	3 to 11
DR80	Driving or attempting to drive when unfit through drugs	3 to 11

These codes must stay on a driving record for 4 years from the date of the offence or 4 years from date of conviction where a disqualification is imposed.

Code	Offence	Penalty points
DG40	In charge of a vehicle while drug level above specified limit	10

Code	Offence	Penalty points
DR90	In charge of a vehicle when unfit through drugs	10

### Insurance offences

Code IN10 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
IN10	Using a vehicle uninsured against third party risks	6 to 8

### Licence offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
LC20	Driving otherwise than in accordance with a licence	3 to 6
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6
LC40	Driving a vehicle having failed to notify a disability	3 to 6
LC50	Driving after a licence has been revoked or refused on medical grounds	3 to 6

### Miscellaneous offences

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on the highway	3 to 11
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc	6

### Motorway offences

Code MW10 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
MW10	Contravention of special roads regulations (excluding speed limits)	3

### Pedestrian crossings

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
PC10	Undefined contravention of pedestrian crossing regulations	3
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3

### Speed limits

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
SP10	Exceeding goods vehicle speed limits	3 to 6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6
SP30	Exceeding statutory speed limit on a public road	3 to 6
SP40	Exceeding passenger vehicle speed limit	3 to 6
SP50	Exceeding speed limit on a motorway	3 to 6

## Traffic direction and signs

These codes must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

## Special code

Code TT99 must stay on a driving record for 4 years from the date of conviction.

It shows disqualification under 'totting-up' - if the total of penalty points reaches 12 or more within 3 years, the driver can be disqualified.

## Theft or unauthorised taking

Code UT50 must stay on a driving record for 4 years from the date of the offence.

Code	Offence	Penalty points
UT50	Aggravated taking of a vehicle	3 to 11

## 'Mutual recognition' codes

You'll get an 'MR' code on your driving record if you're disqualified while driving in Northern Ireland or the Isle of Man. Your disqualification period will also be valid in GB and will stay on your record for 4 years from the date of conviction.

Code	Offence
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk)
MR19	Wilful failure to carry out the obligation placed on driver after being involved in a road accident (hit or run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver
MR39	Driving a vehicle faster than the permitted speed
MR49	Driving a vehicle whilst disqualified
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence

## Aiding, abetting, counselling or procuring offences

For these offences, the codes are similar, but with the number 0 on the code changed to 2. For example, code LC20 (driving otherwise than in accordance with a licence) becomes code LC22 on your driving record if you have helped someone to do this.

## Causing or permitting offences

For these offences, the codes are similar, but with the number 0 on the code changed to 4. For example, LC20 (driving otherwise than in accordance with a licence) becomes LC24 on your licence if you've caused or permitted someone to do this.

## Inciting offences

For these offences, the codes are similar, but with the number 0 on the code changed to 6. For example, DD40 (dangerous driving) becomes DD46 on your driving record if you've incited someone to do this.

## IDENTIFICATION DOCUMENTS

### 1 Documents needed to establish an applicant's identity

- 1.1 It is important for the Council establish the identity of applicants. This ensures that all the information it considers to determine an application are correct and prevents the public being put at risk of someone holding a licence that should not. The documentation is also used to establish an applicant's right to work in the UK.
- 1.2 Applicants must provide original documents to prove their identity to the Council. A certified copy by an authorised notary or registrar may be acceptable for some documents but photocopies are not.
- 1.3 The Council will use the route 1 process used by the DBS to identify individuals.
- 1.4 As all applicants to drive must hold a DVLA driving licence the use of route 1 shall be sufficient in all but the rarest of circumstances.

### 2 **Process to establish identity**

- 2.1 The applicant must provide 3 original documents to the Council. At least one of these should be a "primary document", at least one should show the applicant's current address and at least 1 should provide photographic identification.

#### Group 1: Primary Identification documents

Document	Notes
<b>Passport</b>	Any current and valid passport
<b>Biometric residence permit</b>	UK
<b>Current driving licence photocard - (full or provisional)</b>	UK, Isle of Man, and Channel Islands. From 8 June 2015, the paper counterpart to the photocard driving licence will not be valid and will no longer be issued by DVLA
<b>Birth certificate - issued within 12 months of birth</b>	UK, Isle of Man, and Channel Islands - including those issued by UK authorities overseas, for example embassies, High Commissions and HM Forces
<b>Adoption certificate</b>	UK and Channel Islands

- 2.2 The applicant must then provide 2 other documents, which may be from either group 1 above, or group 2a or 2b below.

- **Group 2a: Trusted government documents**

Document	Notes
<b>Current driving licence photocard - (full or provisional)</b>	All countries outside the UK (excluding Isle of Man and Channel Islands)
<b>Current driving licence (full or provisional) - paper version (if issued before 1998)</b>	UK, Isle of Man, and Channel Islands
<b>Birth certificate - issued after time of birth</b>	UK, Isle of Man, and Channel Islands
<b>Marriage/civil partnership certificate</b>	UK and Channel Islands
<b>Immigration document, visa, or work permit</b>	Issued by a country outside the UK. Valid only for roles whereby the applicant is living and working outside of the UK. Visa/permit must relate to the non-UK country in which the role is based
<b>HM Forces ID card</b>	UK
<b>Firearms licence</b>	UK, Isle of Man, and Channel Islands

- **Group 2b: Financial and social history documents**



Document	Notes	Issue date and validity
<b>Mortgage statement</b>	UK	Issued in last 12 months
<b>Bank or building society statement</b>	UK and Channel Islands	Issued in last 3 months
<b>Bank or building society account opening confirmation letter</b>	UK	Issued in last 3 months
<b>Credit card statement</b>	UK	Issued in last 3 months
<b>Financial statement, for example pension or endowment</b>	UK	Issued in last 12 months
<b>P45 or P60 statement</b>	UK and Channel Islands	Issued in last 12 months
<b>Council Tax statement</b>	UK and Channel Islands	Issued in last 12 months
<b>Utility bill</b>	UK - not mobile telephone bill	Issued in last 3 months
<b>Benefit statement, for example Child Benefit, pension</b>	UK	Issued in last 3 months
<b>Central or local government, government agency, or local council document giving entitlement, for example from the Department for Work and Pensions, the Employment Service, HMRC</b>	UK and Channel Islands	Issued in last 3 months
<b>EEA National ID card</b>		Must still be valid
<b>Irish Passport Card</b>	Cannot be used with an Irish passport	Must still be valid
<b>Cards carrying the PASS accreditation logo</b>	UK, Isle of Man, and Channel Islands	Must still be valid

**2.3** All applicants for a drivers licence are expected to have a DVLA driving licence. This is not only a primary document but also includes the applicants address and photo. The Council recommends that applicants provide their Driving licence and any 2 other documents listed above. The Council recommends that these 2 documents are the individuals' passport or biometric residents permit and a recent utility bill or bank statements.

**2.4** Any applicant that is unable to use the process above shall need to verify their identity by an external identity verification service nominated by the Council.

## DEFINITIONS

“The Council”	Means Hertsmere Borough Council as a Controlled District.
“The Authority” or “The Licensing Authority”	Means Hertsmere Borough Council.
“Licensed Vehicle”	Means both a hackney carriage and Private hire vehicle.
“Vehicle”	Unless the context indicates otherwise shall mean a “licensed vehicle” or a vehicle proposed to be a “licensed vehicle”.
“Private hire vehicle”	Means a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 Section 48 to carry passengers for hire or reward by prior booking through a private hire operator.
“Private hire operator”	Means a person licensed under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 who makes provision for the acceptance of private hire bookings to undertake themselves or pass to others to undertake.
“Hackney Carriage”	Means a vehicle used to stand or ply for hire in the Borough of Hertsmere licensed under the Town Police Clauses Act 1847
“Operate”	Means to, in the course of business, make provision for the invitation or acceptance of bookings for a private hire vehicle.
“The DfT”	Means the Department for Transport, including previous names under which that Department has been known.
“The DfT Best Practice Guidance”	Means The Department for Transport – Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, published in March 2010 or any subsequent update.
“The DfT Statutory Guidance”	Means the Department for Transport Statutory Taxi & Private Hire Vehicle Standards published in July 2020 or any subsequent update.
“The Committee”.	Means the Licensing Committee or Licensing Sub-Committee of the Council.
“Driver”	Means a person with a licence issued by the Council to drive either a Private Hire Vehicle or a Hackney Carriage vehicle licensed by the Council.
“Taxi”	Is often used generically by members of the public and the trade to describe both hackney carriages and private hire vehicles. Legislation issued later than the Local Government (Miscellaneous Provisions) Act 1976 only refers to Hackney Carriages as “Taxi’s”. For the avoidance of doubt the term is not used in this Policy other than to refer to both types of Licensed Vehicle.
“DVLA”	Means the Driver and Vehicle Licensing Agency and any previous or subsequent names by which it may be known.
“DVLA driving licence”	Means a full original UK driving licence issued by the DVLA.
“Seatbelt”	Means a three point belt which restrains the upper and lower parts of the torso including lap belt. The belt is anchored at not less than three points, and is designed for use by an adult.
“Policy”	Means this Policy and its appendices.
“Assistance Dog”	Means, (a) a dog which has been trained to guide a blind person; (b) a dog which has been trained to assist a deaf person; (c) a dog which has been trained by a prescribed charity to assist a disabled person who has a disability that consists of epilepsy or otherwise affects the person’s mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects; (d) a dog of a prescribed category which has been trained to assist a disabled person who has a disability (other than one falling within paragraph (c)) of a prescribed kind;
“Conditions”	Means the conditions of licence applied by the Council to either a driver licence, operators licence or vehicle licence.
“WAV”	Means a wheelchair accessible vehicle.
“The primary licensing legislation”	Means the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976
“The 1976 Act”	Means the Local Government (Miscellaneous Provisions) Act 1976.
“The 1847 Act”	Means the Town and Police Clauses Act 1847.
“Controlled District”	Means any authority that has adopted the provisions of the 1976 Act.
“Date of first registration”	In respect of a vehicle means the date shown as the date of first registration on the vehicles log book issued by the DVLA.
“Date of manufacture”	Means the date the vehicle was manufactured.

"Taxi Driving Test"	A test of an individual's ability to drive a taxi as conducted and assessed by a qualified driving instructor employed by the Council or such organisation as may be approved by the Council for that purpose
"Certificate of Conduct"	Means any document issued by a competent judicia or administrative authority of foreign jurisdiction evidencing the criminal record, or lack thereof, of an applicant.
"Certificate of Good Conduct"	Means a medical examination carried out in compliance with the Group 2 standards set by the DVLA.
"Medical"	