



# **Draft Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance**

*Effective Date: TBC*

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## **Part One: Introduction**

This Licensing Guidance is written pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, which place on Eastbourne Borough Council (“the Council”) the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles. In addition the Council will have due regard to all other relevant legislation and guidance in its decision making process. The Council has responsibility for the licensing of vehicles, drivers and operators within the borough of Eastbourne and in exercising its discretion the Council will have regard to this Guidance.

The Council recognises the important role that hackney carriage and private hire vehicles play as part of an integrated transport system as they provide essential services particularly in those situations where public transport is either not available, for example in rural areas, and for those individuals with mobility difficulties.

In setting out this Guidance the Council seeks to;

- a. Ensure the safety and welfare of the public - which is the overriding objective,
- b. Encourage environmental sustainability,
- c. Ensure an efficient and effective hackney carriage and private hire provision,
- d. Monitor and improve standards of service in the trade

Notwithstanding the existence of this Guidance, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to substantially depart from this Guidance, in exceptional circumstances, reasons will be given for doing so.

This Guidance will take effect from xxx and will be kept under review and amended as and when necessary to reflect changes in legislation, case law, statutory guidance and best practice.

Minor amendments to this Guidance required for example by virtue of legislative change or administrative procedural change may be made by the Functional Lead - Quality Environment in consultation with the Chair of the Licensing Committee.

Significant amendments to the Guidance will require a full public consultation prior to consideration by the full Licensing Committee. Significant amendments include those that will have a significant procedural or financial impact on applicants, licence holders or the public and those which are inconsistent with the Guidance objectives.

When any revisions are made to the Guidance the Council will publish a statement of the revision on its website along with the revised Guidance.

### **Transitional Arrangements**

The Guidance will have effect from xxx (date agreed). With the exception of the Vehicle Licence Conditions which for new applicants for a vehicle licence will take effect from the date this Guidance becomes effective, and for existing vehicle licence holders will take effect from when they change the vehicle to which the licence applies.

## Part 2: Definitions

The 1847 Act	Town Police Clauses Act 1847
The 1976 Act	The Local Government (Miscellaneous Provisions) Act 1976
Authorised Council Officer	Means an Officer of the Council authorised under the Council's Scheme of Delegation to administrate the licensing function
Best Practice Guidance	Means Best Practice Guidance on Taxi and Private Hire Vehicles Licensing issued by the Department of Transport in March 2010 as amended or as may be replaced.
Council or Licensing Authority	Means Eastbourne Borough Council in its licensing function
Driver	Refers to a hackney carriage, private hire, dual and restricted driver, unless expressly stated or the context indicates otherwise
Hackney Carriage	Means a vehicle licenced under the 1847 Act to stand or ply for hire throughout the borough controlled by the Council
He/his	shall apply to female equivalent
Private Hire Operator	Means a person who in the course of business makes provision for the invitation or acceptance of bookings for private hire vehicles
Private Hire Vehicle	A motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
Proprietor	Refers to owners of either hackney carriage or private hire vehicles, unless expressly stated or the context indicates otherwise and includes a part proprietor
Restricted Private Hire Driver	Only undertake school transport work in a private hire vehicle. The driver would be responsible for driving a child to and from their school and the licence does not permit the licence holder to undertake any other work.

Vehicle Refers to a hackney carriage or private hire or specialist vehicle, unless expressly stated or the context indicates otherwise

### **Part 3: Vehicles**

#### **Limitation of Numbers**

The Council currently has no limit on the number of hackney carriages which may be licensed within the Borough and has no intention of introducing one unless evidence of no significant unmet demand can be provided.

No powers exist for the Council to limit the number of private hire vehicles that it may licence.

#### **Specifications and Conditions**

The Council has a wide discretion over the type of vehicle it can licence and the best practice suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible.

The Council is empowered to impose such conditions as it considers reasonably necessary in relation to vehicles licences. Licence conditions relevant to the type of vehicle are contained in Appendix 1.

#### **Environmental Considerations**

The Council has given careful consideration to introducing tougher emissions standards for all licensed vehicles and considers its responsibility in protecting the environment to be an important objective of the Guidance.

The Council is committed to reducing emissions through raising awareness of environmental issues with the trade and other interested parties.

At this time the Council considers that its requirement for all vehicles to be tested every six months means that it does not require tougher emission standards for licensed vehicles other than the relevant Euro standard.

#### **Maximum Age of Vehicles**

Vehicles presented for first licensing shall not be more than five years old and vehicles of more than ten years old will not be relicensed, apart from in exceptional circumstances at the discretion of an Authorised Officer.

#### **Vehicle Testing**

No vehicle may be used unless it has a current MOT pass certificate and have passed a Vehicle Suitability Test ("VST") both of which must be dated no earlier than one calendar month prior to the licence commencement date. Vehicles that are less than one year old will be exempt from obtaining a current MOT pass certificate but will still be required to pass a VST.

All vehicles will be subject to an annual MOT and a six monthly VST. Each application for a grant or renewal of a vehicle licence must be accompanied with proof of compliance.

The licence of any vehicle which fails its testing requirement will be automatically suspended until such time as the vehicle has been re-examined and the necessary pass certificate obtained.

In addition, the Council will undertake a programme of inspections between formal testing dates. All vehicles must be available for inspection, at any location within the Borough, at all times, when requested by an Authorised Officer or a Police Officer. All vehicle documentation must be produced within 24 hours, or at such time as specified, when requested by an Authorised Officer or a Police Officer. In the event of any concerns in relation to vehicle safety the vehicle will be referred for a VST. Where in the opinion of an Authorised Officer the testing requirements would not be met they may agree a period of time for rectification and re-inspection or they will suspend the vehicle until such time as the re-testing requirements shall be met.

Responsibility for ensuring the vehicle is tested and licensed remains with the licence holder.

VST's are only to be carried out by a Council designated DVSA approved garage in the Borough.

### **Livery**

All Hackney Carriage vehicles must have white paintwork. Private hire vehicles shall have paintwork that is any colour other than white.

All vehicles are to display an approved door sign as supplied by the Council (in the Council's corporate colours), with the exception of executive private hire vehicles solely used for that purpose.

All Hackney carriage vehicles will display a roof sign as specified within the vehicle conditions.

### **Change of Ownership**

Any change to the proprietor named on a vehicle licence must be notified to the Council within fourteen days of any change.

When the proprietor of a vehicle licence wishes to transfer the licence to another person, company or partnership he must notify the Council, using the prescribed application form and paying the appropriate fee, before such a change takes place.

### **Unauthorised Use**

The proprietor shall not allow the vehicle to be driven and/or used for hire by any person who does not hold an appropriate current driver licence.

### **Intended Use (Hackney Carriages only)**

A hackney carriage vehicle licensed by one local authority can be used to fulfil pre-booked hiring's on behalf of private hire operators licensed by another local authority. In order that the Council may retain local control over the hackney carriages it licenses, applicants will be asked as part of the application process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hiring's. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the Borough. If the applicant indicates that

they will not predominately work within the Borough the application will normally be refused.

This section is not intended to act as a restraint of trade since applicants may make applications to any local authority in which area they intend to ply for hire.

### **Accident Reporting**

Any accident in a vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers must be reported to the Council as soon as reasonably practicably and in any case within 72 hours of the event.

Following any accident, as defined above, if it is the intention of the proprietor to continue licensed use of the vehicle it must pass a VST. It is the responsibility of the licence holder to notify the Council that this requirement has been satisfied. The Council may suspend the use of the licenced vehicle until it is suitably repaired and conforms to the testing requirements.

A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by another vehicle provided that the damage or defect has been reported to an Authorised Officer, and the replacement vehicle meets the requirements of this Guidance and is suitable to be used for hire purposes.

### **CCTV**

The Council considers that the security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent. Under this Guidance CCTV will be strongly encouraged, but not mandatory, in all hackney carriages and private hire vehicles.

The written approval of the Council must be obtained before CCTV is installed in a vehicle. If CCTV equipment is installed the relevant conditions in Appendix 1, below, will apply.

### **Vehicle Specification**

The Council's general specifications are;

Vehicles shall be fitted with a minimum of four side doors of a size to permit easy access.

Vehicle engines shall meet the following Euro standards. Diesel powered vehicles shall meet the Euro 6 standard for emissions and petrol vehicles the Euro 4 standard.

The vehicle shall be designed to permit the specified number of passengers to be carried in comfort and safety. The rear seat must be at least 48 inches wide and all seats shall have a minimum width of 16 inches per person

The vehicles shall be provided with adequate luggage space for the number of passengers for which the vehicle is licensed.

Vehicles may be of the saloon, estate, hatchback or MPV type and all vehicles must be approved by the Council. Estate vehicles must be fitted with a grill or parcel shelf sufficient to prevent luggage coming into contact with passengers using rear seats.

Left hand drive vehicles will not normally be licensed, except with the agreement of an Authorised Officer.

A comprehensive vehicle specification list shall be available on the Council's website.

### **Hackney Carriage Vehicles to be wheelchair accessible**

All additional hackney carriage vehicles will only be licensed if they are wheelchair accessible. The vehicles may be either side loading or rear loading.

As current hackney carriage vehicles are replaced, there will be a requirement for them to be replaced with wheelchair accessible vehicles.

### **Stretched Limousines and Other Specialist Vehicles**

Any stretched limousine capable of carrying eight passengers or less which is offered for hire will require a licence.

For the purposes of this Guidance a stretched limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that is capable to carrying up to but not exceeding 8 passengers.

The Individual Vehicles Approval Inspection regime introduced by the Vehicle and Operator Services Agency will apply to all limousine and speciality vehicles that do not meet the standard vehicle specification.

The Council recommends that anyone wishing to licence a limousine or specialist vehicle should contact the Council before purchasing a vehicle to ensure that advice is given about meeting the required standards.

### **Funeral and Wedding Vehicles**

There is no requirement for a vehicle to be licensed when it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying out the business of a Funeral Director for the purposes of funerals.

A vehicle does not need to be licensed whilst it is being used in connection with a wedding. For clarification, the exemption only applies to journeys directly relating to the wedding service itself for example transporting the bride/and or groom to the wedding service, from the service to the reception and from the service/reception to home. Transport to other locations such as the airport would be considered a licensable activity.

### **Ambulance and Other Patient Transport**

Ambulances defined by, 'vehicles conforming to original manufacturers specifications and equipped and used for the carriage of sick, injured or disabled people with permanent rear compartment and means of carrying passengers in a recumbent position together with an attendant seat for use by accompanying medical professionals, readily identifiable as a vehicle used for the carriage of such people by being marked ambulance on both sides', will be exempt from private hire vehicle licensing.

In addition, the Council will exempt from licensing those vehicles being used by volunteer drivers (unpaid) to take patients to and from hospital.

### **Courtesy Vehicles**

Courtesy vehicles used for example for transporting customers to and from garages, airports, hotels and night clubs without charge but with a clear business benefit should be licensed even though there may not be a separate charge for using the vehicle. For clarification, in addition the operator and the driver should also be licenced.

### **Executive Private Hire Vehicles**

Executive or chauffeur driven vehicles will require a licence. However, private hire vehicles will be issued with an exemption certificate, which allows them not to attach an external plate or door signs, if the vehicle is of a high quality both in terms of brand and condition. This include but are not limited to luxury brands such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus and in addition the vehicle should have no visible defects or dents either externally or internally.

Potential applicants will need to demonstrate that the vehicle will be used exclusively for executive clients and/or special occasions. Examples of these journeys would include but are not limited to corporate events, conferences, exhibitions and meetings, chauffeured services and school proms.

All executive vehicles undertaking any private hire work are required to display an external plate and door signs.

### **Dual Plating**

The Council will not grant a vehicle licence for any vehicle already licensed by another licensing authority.

## **Part 4: Drivers**

### **Licences**

The Council issues Dual Drivers licences.

### **Age and Experience**

The Guidance does not set a minimum age limit for new drivers. However, a licence will not be granted to anyone who has not held a full DVLA or equivalent driving licence, for a period of at least twelve months immediately prior to the application.

An applicant who meets the licensing requirement by virtue of an acceptable non UK driving licence must obtain a full UK driving licence within 12 months of the issuing of the driver licence. Where this requirement is not satisfied the driver's licence will be automatically suspending pending compliance. This requirement is to ensure appropriate regulation of any penalty points issued by the courts in relation to road traffic offences and is an integral part of the 'fit and proper person' test.

There is no maximum age limit for drivers.

### **Driver Tests**

Applicants for will be required to meet the following the following tests as detailed below.

#### **1. Knowledge Test**



The knowledge test includes questions on locations of places of interest, policy and law, the Highway Code, road signs, numeracy, English comprehension, equalities including disability awareness, and child exploitation.

Applicants are limited to three attempts at the test per application and the test must be passed within six months of receipt their application. If they fail the tests, their application will be rejected and they must wait for at least six months before reapplying.

Any person found cheating will be disqualified from the test and will not be granted a licence for at least three years.

Applicants are required to provide photographic identification on the day of the test, for example a passport, and if they fail to provide photographic ID their test will be cancelled.

The cost of the first test is included in the application fee. Each subsequent test is paid for at the time of booking and the fee is non-refundable.

In addition, drivers will be required to attend training sessions on Equalities Awareness including Disability Awareness. Applicants who fail the training will be required to resit the training and pass before a licence can be issued. The costs of this training are payable by the applicant.

## **2. Driving Proficiency Test**

New applicants are required to undertake a driving proficiency test and details of local companies who offer the test will be provided at the application stage.

## **3. Medical Examination**

In order to promote the Council's public safety objective it is a requirement for an applicant to provide a Group 2 medical assessment from a registered medical practitioner confirming their fitness to drive.

This requirement to produce a medical assessment applies to any applicant unless the applicant is the holder of a current passenger services vehicle or heavy goods vehicle licence and is able to provide proof of medical examination undertaken in the three months prior to the application being made.

A current licence holder must advise the Council forthwith if there is any deterioration in their health that may affect their driving capabilities.

Licensed drivers are required to have a medical assessment at least every five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary.

The prescribed form is available from the Council. The medical examination will normally be carried out by the applicant's GP, but can be from any other medical practitioner, if an Authorised Officer agrees, who has accessed the applicant's medical records for at least the last two years. On completion the form must be submitted to the Council.

In addition, drivers between the ages of 60 to 65 years of age must pass an annual eye sight test.

The applicant/licence holder will be responsible for any fees incurred in obtaining a medical examination.

### **Disclosure & Barring Service (DBS) Disclosures**

A DBS check on a driver is an essential safety measure in assessing whether or not an applicant is suitable to hold a licence therefore an Enhanced Disclosure provided by the DBS is required for all applicants whether in relation to new or renewal applications.

The Rehabilitation of Offenders Act 1974 (as amended) does not apply to applicants for drivers licences therefore applicants are required to disclose all convictions etc including those that would normally be regarded as spent but only relevant 'spent' convictions will be taken into account by the Council. Further details are provided in Appendix 2 Guidelines on Relevance of Convictions etc.

Before an application will be considered the applicant must provide a current, not less than three months old, Enhanced Disclosure. The only exception would be where an applicant has registered with the DBS for the online checking service and the Council has seen the latest DBS to which the online check refers.

All new applicants that have lived outside of the UK for any period of time over six months, as an adult, must provide a Certificate of Good Conduct from the country where they resided. If a Certificate of Good Conduct cannot be provided then written reasons as to why it cannot be provided must be supplied and those reasons will be considered by an Authorised Officer.

In the case of renewal applicants who have been out of the UK for a period of more than six months they will need to provide a Certificate of Good Conduct from the relevant embassy of that country. If a Certificate of Good Conduct cannot be provided then written reasons as to why it cannot be provided must be supplied and those reasons will be considered by an Authorised Officer.

All Certificates of Good Conduct must be translated into English by an accredited translator and accompanied by a declaration to that effect.

The Council is bound by the rules of confidentiality and will not disclose information obtained to any third party save as required by the law. The applicant for an Enhanced Disclosure will be sent a certificate to their home address and will need to provide the original to the Council.

The Council will also make checks with the National Anti-Fraud Network database on refusal and revocation of licences.

### **DVLA Licence Checking**

In order to ensure the Council have a driver's complete driving history the Council will check with the DVLA for all new applications and upon renewal.

Any discrepancies between the DVLA record and the applicants driving licence will be brought to the attention of the DVLA and the Police, as appropriate.

### **Right to Work**

In addition all applicants will be required, prior to the grant or renewal of the licence, to demonstrate their right to work in the UK and details are contained in Appendix 4.

### **Conditions**

The Council is permitted to apply conditions to private hire licences as it may consider reasonably necessary and those are contained in Appendix 5.

The Council is not permitted to apply condition to hackney carriage drivers but instead byelaws apply as contained in Appendix 6.

### **Duration**

The Council will licence drivers for a maximum of three years from the date of the licence but also offer applicants the choice of an annual licence in exceptional circumstances.

## **Part 5: Private Hire Operators**

Any person who operates a private hire service using one or more private hire vehicles must have a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

An operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds dual/restricted private hire drivers licence. All three licences, operator, driver and vehicle must be issued by the same licensing authority.

### **Conditions**

The Council has the power to impose such conditions on an operator's licence as it considers reasonable, necessary and proportionate. These are found at Appendix 3.

### **DBS Disclosures**

Operators cannot be required to produce an Enhanced Disclosure therefore a Basic Disclosure and/or a Certificate of Good Conduct form, as relevant, is required. A reference covering the applicant's financial records and/or business history may also be considered appropriate in some instances.

Before an application for an operator's licence will be considered the applicant must provide a current (not less than three months old) Basic Disclosure and/or Certificate of Good Conduct. Applicants that hold a current drivers licence with the Council will be exempt from this requirement.

### **Public Liability Insurance**

The Council may check that appropriate public liability insurance has been taken out for premises that are open to the public. Before an application for an operator's licence is made the applicant must either produce evidence that they have taken out appropriate public liability insurance for the premises to be licenced or signed a declaration that their premises are not open to the public.

### **Address From Which May Operate**

The Council will specify on the licence the address from which the operator may accept bookings and dispatch vehicles. The operator must notify the Council in writing of any proposed change of address during the period of the licence. The operator may not

change the operating address until such time as the change has been approved by the Council.

The Council will not grant an operator's licence for an operating base that is outside the borough. This is to ensure that proper regulation and compliance measures may be taken by the Council and is in no way intended to be a restraint of trade.

### **Sub-contracting of Private Hire Bookings**

A licensed operator may sub contract a booking to another licensed operator, whether in the same borough or not. Both operators must be licensed within the area in which their operating base is located and should record details of the booking.

The initial booking must be taken within the area in which the operator is based and the sub contracted booking must be taken within the area in which the sub contracted operator is based.

### **Right to Work**

All applicants will be required prior to the grant of the licence to demonstrate their right to work in the UK and details are contained in Appendix 4.

### **Licence Duration**

The Council will ordinarily issue a successful applicant an operator's licence with a five year licence subject to the power to grant a licence for a year should this be appropriate in the circumstances or requested.

## **Part 6: Application Process**

This section of the Guidance is intended to give an indication of the application process relating to all application types. The Council notes that there are no prescribed time scales for dealing with applications but it will endeavour to deal with all applications in a timely manner.

### **Vehicles**

An application for a vehicle licence will only be considered complete when all of the following components have been received:

- Prescribed application form fully completed
- Appropriate fee
- V5 registration document
- Current valid insurance certificate of cover note
- VST

### **Drivers**

An application for a drivers licence will only be considered complete when all of the following components have been received:

- Prescribed application form fully completed

- Appropriate fee
- Current valid full driving licence
- Approved Driving Assessment
- Enhanced DBS disclosure and/or Certificate of Good Conduct (as appropriate)
- Knowledge test pass
- Medical certificate
- Proof of right to work in the UK (new applicants and existing drivers where applicable)
- A passport sized, clear and easily identifiable photograph of the applicant
- Proof of identity. Applicants must submit one form of proof of address such as a utility bill (the proofs of address should not be more than three months old)
- DVLA Check Code
- Proof of passing the training in Equalities Awareness including Disability Awareness.

### **Operators**

An application for an operator's licence will only be considered complete when all of the following components have been received

- Prescribed application from fully completed
- Appropriate fee
- Inspection of the operating premises by an Authorised Officer
- Proof of Public Liability Insurance ( as appropriate)
- A professional financial or business reference
- Basic Disclosure/Certificate of Good Conduct unless already licensed as a driver with the Council.

Application form, appropriate fees and all supporting documentation should be submitted at least fourteen days prior to the expiry of the previous licence. Incomplete applications may be returned to the applicant for resubmission when complete. An application will not be processed without all supporting documentation being received which satisfies the requirements of this Guidance.

If a licence has not been issued at the point when an existing licence expires the licence holder must cease operating until the new licence has been received.

## **Consideration of Applications**

Unsuccessful applicants will be informed of the Council's reasons for the refusal and their right of appeal against the decision to the Courts.

## **Part 7 – Disciplinary and Enforcement Measures**

### **Complaints against licence holders**

All complaints will be fully investigated and will often involve the taking of statements from the complainant, driver and any witnesses. An Authorised Officer will consider all evidence and mitigating circumstances arising from the investigation before referring the matter to the Senior Specialist Advisor, if appropriate. The outcome of any complaint will be advised to the complainant in the form of a written response.

### **Enforcement**

It is recognised that well directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trade. In order to balance the protection of public safety with the need to prevent unnecessary interference in a licence holder's business, the Council will ensure that its enforcement is reasonable, proportionate, transparent and consistent. Enforcement action will not normally constitute a punitive response to minor technical contraventions but repeated minor technical contraventions will be subject to appropriate action.

### **Informal Action**

An Authorised Officer will deal with the majority of incidents involving potential disciplinary or enforcement action. They can take informal action to secure compliance including offering advice and giving verbal or written warnings. Informal enforcement action may be appropriate where an Authorised Officer considers;

- The act or omission is not serious enough to warrant formal actions
- It can reasonably be expected that informal action will achieve future compliance
- Confidence in the driver or operator is ordinarily high
- The consequences of non-compliance will not pose a significant risk to public safety

### **Formal Action**

Whilst each incident will be considered in the light of all circumstances a relevant licence holder will normally be given a written warning by an Authorised Officer including but not limited to;

- Failure to notify the Council of a change of address within prescribed timescales
- Refusal to accept hiring without reasonable cause
- Unreasonably prolongation of journey
- Leaving a hackney carriage unattended at a rank
- Failure to produce relevant documents within proscribed timescales
- Unsatisfactory condition of vehicle, externally and internally
- Failure to provide proof of insurance when requested
- Carrying more passengers than stated on the vehicle licence
- Failure to display plate or appropriate door signs

- Failure to notify a transfer of vehicle licence within prescribed timescales
- Failure to report an accident within prescribed timescales
- Failure to carry a fire extinguisher
- Failure to carry a first aid kit
- Failure to use authorised roof light
- Smoking in the vehicle
- Failure to have driver badge clearly displayed
- Failure to observe rank discipline
- Failure to issue receipt on request
- Driving whilst using a mobile phone.

If an Authorised Officer gives two or more written warnings in a twelve month period the licence holder will be referred in the first instance to the Senior Specialist Advisor.

Serious disciplinary or enforcement matters will be immediately referred to the Senior Specialist Advisor and will include, but are not limited to;

- Unlawful plying for hire
- Providing false or misleading information on the licence application form
- Overcharging
- Any relevant conviction, caution or fixed penalty notice
- Failure to carry an assistance dog without an exemption certificate
- Failure to carry passengers in wheelchairs in a designated vehicle without an exemption certificate
- Failure to notify in writing a change in medical conditions which would impact on drivers abilities to drive
- Obstruction of an Authorised Officer or Police Officer wishing to examine the vehicle.
- Using a licensed vehicle in a dangerous condition
- Driver not holding a current DVLA licence
- Using a vehicle for which the licence has been suspended or revoked.

### **Referrals**

Whilst the day to day enforcement of licensing is a function carried out by Authorised Officers serious or repeated disciplinary matters will be referred to the Senior Specialist Advisor in the first instance and at his discretion to the Licensing Sub Committee or exceptionally to the full Licensing Committee. Therefore any reference to Senior Specialist Advisor in this part also means Licensing Committees.

The Senior Specialist Advisor will consider the impact of transgressions on the fitness of an individual to hold a licence and take appropriate action.

### **Enforcement and Disciplinary Meetings/Hearings**

Where the Senior Specialist Advisor is considering disciplinary and/or enforcement action against a licence holder, the licence holder will be entitled to attend a meeting with them to answer allegations and/or provide any mitigating circumstances, if they wish to do so.

Prior to attending the meeting, an Authorised Officer will provide a written report containing all the information necessary to understand the allegation(s), the relevant sections of this Policy, the options available and any other relevant information. The

report will be provided to the licence holder at least five working days prior to the meeting.

Following such a meeting or when the licence holder does not require such a meeting the Senior Specialist Advisor may decide to take one or more of the following actions;

- No action
- Informal advice (verbal or written warnings)
- Require the production of driving licences or other specified documentation
- Use statutory notices (section 68 stop notices, etc.)
- Suspend a licence
- Revoke a licence
- Authorise a Fixed Penalty Notice (after consultation with the Councils Legal Section)
- Authorise a Caution (after consultation with the Council's Legal Section)
- Authorise prosecution action (after consultation with the Council's Legal Section)
- Other appropriate action as deemed necessary, including any combination of the above. For example where concerns are raised about a driver's standard of driving; the driver may be required to pass an appropriate driving standard assessment at the discretion of the Council. Failure to achieve a pass within a specified period of time will result in the suspension of the driver until such time as a pass is achieved. Where necessary for public safety a driver may be suspended immediately until such time as a pass is achieved.

For clarification, if the Senior Specialist Advisor passes the matter on for consideration by the Licensing Sub Committee a hearing will always be held regardless of the presence of the driver, proprietor or operator.

## **Suspension Vehicles**

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

Where there is a risk to public safety the further use of the vehicle will be suspended until the defects have been remedied. The suspension will not then be lifted until the vehicle has undergone a further test at a DVSA approved garage in the Borough, at the licence holder's expense, and the vehicle meets the requirements of this Guidance.

## **Drivers**

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period at the discretion of the Senior Specialist Advisor.

## **Revocation**

The Senior Specialist Advisor may revoke the licence. Ordinarily, any revocation is stayed pending the period for appeal expiring or in the case of an appeal the appeal being determined. Where necessary for public safety, the Senior Specialist Advisor may determine that a revocation takes immediate effect and is not stayed pending any appeal.



## **Refusal to Renew**

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

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

An Authorised Officer or a Police Officer may serve notice in writing for a vehicle, or the taximeter affixed to such a vehicle, to be examined at a DVSA approved garage in the Borough at a time specified in the notice. This notice may only be served if there are concerns as to the condition of the vehicle or the accuracy of the taximeter.

In addition the vehicle licence may be suspended until such time as the Council's testing requirements have been complied with if it is deemed necessary for public safety. The suspension notice will remain in force until an Authorised Officer has issued written confirmation that the Council's testing requirements have been met.

If an Authorised Officer is not satisfied that appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue the vehicle licence will be deemed automatically revoked.

## **Cautions and Fixed Penalty Notices**

In the interests of natural justice before a Caution or FPN is administered there must be sufficient evidence of guilt to give a realistic prospect of a conviction, the offender must admit the offence and the offender must understand the significance of the Caution or the FPN and give informed consent.

Where a person declines the offer of a Caution or a FPN, it will be necessary for the Council to consider taking alternative enforcement action. Whilst this would ordinarily mean prosecution this is not inevitable.

## **Prosecution**

The decision to prosecute is significant as it may impact on the licence holder's future employability. Generally, the circumstances that may warrant a prosecution include, but are not limited to;

- Blatant or repeated disregard for legislation and/or this Guidance, particularly where the economic benefits for the breaches are substantial
- When there has been blatant and/or reckless disregard for the safety of passengers or other road users

## **Part 8: Equalities and Accessibility**

The Council is committed to social inclusion and ensuring a wide variety of opportunities are available particularly to those with mobility difficulties. The Council requires all proprietors, drivers and operators to be compliant with the relevant provisions of the Equality Act 2010 and any subsequent legislation. The Council want to ensure that passengers in wheelchairs are better informed about the accessibility of vehicles in the Borough and are confident of receiving any assistance they require.

The Council will actively encourage the licensing of sufficient accessible vehicles and will maintain a designated list of wheelchair accessible vehicles in the Borough which can be found on the Council's website.

Before a vehicle is placed on the designated list it must be possible for the user of a 'reference wheelchair' to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. More details on reference wheelchairs can be found on the Council's website.

The Council recognises that this means that some types of wheelchair may be unable to access some of the vehicles on its list. Therefore the Council will strongly encourage the provision of information concerning the size and weight of wheelchairs that can be accommodated including whether wheelchairs that are larger than reference wheelchairs can be accommodated. The Council will also publish a separate list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat in the vehicle.

The Council notes the duty on operators and drivers of designated wheelchair accessible vehicles to carry a passenger while in the wheelchair and not to make any additional charge for doing so. In practice this means that a meter should not be left running whilst the driver performs duties required by the Equality Act 2010 including loading the passenger's luggage into and out of the vehicle, or when the passenger enters or leaves the vehicle or when a wheelchair is being secured within the passenger compartment, or when a wheelchair is being loaded in or out of the vehicle, or when installing a boarding ramp.

If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passengers' luggage and/or wheelchair into and out of the vehicle.

The Council notes that the operator or driver hired by a disabled person who is accompanied by an assistance dog or by another person who wishes to be accompanied by a disabled person with an assistance dog should accept a booking, carry the assistance dog and allow it to remain with the passenger and not make an additional charge for doing so.

Drivers who, for medical reasons are unable to accept wheelchair passengers or assistance dogs are able to apply in writing to the Council for an exemption certificate. Such a certificate will only be issued on production of appropriate medical evidence in the form of a letter or report from a GP, or from an independent medical assessor. The exemption certificate, which must show the photograph of the driver, must be clearly displayed in the vehicle at all times. If the exemption application is unsuccessful the driver will be informed in writing within 14 days with a clear explanation for the reasons for the decision.

## **Part 9: Fares**

### **Hackney Carriages**

The Council will consider the fare scales as and when requested to do so by the majority of the trade who shall set out a clear proposal of any change. Before varying the fares the Council will follow the appropriate procedures detailed in the 1976 Act.

When determining the level of fares, consideration will be given to what it is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost-effective service at the times it is needed.

Hackney Carriage fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.

The fare for any journey that starts and ends within the Borough cannot exceed the metered fare based on the Council's maximum fare tariff. The meter should only be started when the passenger(s) is/are in the vehicle and the journey commences. The fare for any journey that starts or ends outside of the Borough can be negotiated prior to the commencement of the journey without using the meter.

The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised fares will be provided to each hackney carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

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

### **Private Hire Vehicles**

The fare for a journey in a private hire vehicle must be agreed with the private hire operator at the time of booking. The driver should charge no more than the fare agreed with the operator at the time of booking.

The agreement between the hirer and the operator can either be for a fixed monetary sum, or an agreement that the fare will be calculated using the meter within the vehicle. In the case of a metered fare, the starting point for engaging the meter must be agreed at the time of booking.

A private hire driver must, if requested by the passenger, provide a written receipt for the fare paid.

## **Part 10: Licence Fees**

### **Fee Structure**

The legislation and established case law provides that licence fees should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles. In simple terms, the Council can only set fees on a reasonable cost recovery basis and cannot make a profit from licence fees when analysed over a typical three-year cycle.

The fees currently payable for the grant and renewal of hackney carriage and private hire licences are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.

### **Payment**

The Council is able to accept payment by cash, debit or credit card, cheques, or BACS payments. Cheques must be payable to Eastbourne Borough Council.

The Council is unable to accept cash payments, save for exceptional circumstances.

### **Refunds and Duplicate Copies**

In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the whole month/s of the unexpired portion of the licence fee.

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.

Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.

### **Part 11: Appeals**

Appeals against the decisions of an Authorised Officer or Licensing Members may be made to the Magistrates' Court.

Any decision notifications will include detailed information on how to appeal and the applicable time limits.

### **Appendix 1: Conditions Private Hire Vehicles and Hackney Carriages**

These conditions apply to all vehicles unless expressly stated.

#### **Colour of Vehicle**

All Hackney Carriage vehicles must have white paintwork. Private hire vehicles shall have paintwork that is any colour other than white.

The above does not apply to stretched limousines, other specialist vehicles or executive private hire vehicles.

#### **Maintenance of Vehicle**

The vehicle and all its fitting and equipment shall at all times when the vehicle is in use or available to hire be kept in a safe and clean condition.

All relevant statutory requirements including in particular those contained in the Motor Vehicle (Construction and Use) Regulations shall be fully complied with.

#### **Identification Plate**

The plate identifying the vehicle as a private hire vehicle shall at all times be securely fixed to the outside on the rear of the vehicle in a conspicuous position in such a manner as to be easily removed by an Authorised Officer or Police Officer.

On written application the Council may exempt certain specialist or executive vehicles from the need to display external plates and operator identification.

#### **Signage**

Hackney Carriages must be fitted with a sign approved by the Council. The sign shall comprise a yellow base material with an attached blue front panel bearing the words EASTBOURNE TAXI in yellow. The rear panel of the sign shall bear the word TAXI or if the proprietor chooses the telephone number of the taxi business. The word TAXI or telephone number of the taxi business on the rear panel shall be red on a black background in Helvetic Bold font style. The letters of the word Eastbourne shall be 2.5cm high and 2cm wide. The letters of the word TAXI shall be 7cm high and 8.5cm wide. The digits of the telephone number on the rear of the sign shall be 8cm high and 5cm wide. The sign shall be illuminated and have a green light on top capable of being switched on to indicate the vehicle is for hire. The sign shall be placed transversely on the roof of the vehicle and shall not exceed 46cm in width and 17cm in height.

Fairway, Metrocab and similar purpose made taxis with built-in signs are exempt from the above.

Stretched Limousines and other specialist vehicles are exempt from the requirement to have a sign.

Private Hire Vehicles must not carry a roof sign of any description or have any markings that give the impression that it is a hackney carriage. They must display Council approved signage on the vehicles stating that the vehicle is only able to undertake pre-booked journeys. Any signage or advertising on a private hire vehicle must not include the words 'taxi', 'cab', 'hackney carriage' or 'for hire' save for the word 'taxi' or 'cab' being part of the company name.

The proprietor shall cause to be affixed and maintained in the vehicle in a conspicuous position and in accordance with the directions of the Council any sign or notice which the Council may from time to time require.

No other signs will be permitted to be displayed anywhere on the vehicle without the written permission of a Senior Specialist Advisor.

### **Advertising**

No other advertising of any description is allowed on the vehicle without the written permission of an Authorised Officer. Such permission will only be given if the vehicle is not exempt from displaying the Council's livery and the Council's guidance on advertising is followed.

### **CCTV (applicable if installed in a vehicle)**

The installation and operation of the CCTV system shall comply with the requirements of the Information Commissioner's CCTV Code of Practice.

Following the installation of any CCTV installed into the vehicle it is incumbent upon the licence holder (as the data controller) to handle relevant data in an appropriate and secure manner.

The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.

The CCTV equipment will remain at all times the property of the proprietor of the vehicle who will be responsible for the maintenance of the system and will ensure that it is

checked regularly and maintained in working order at all times. If at any time the CCTV system is not working it must be reported to an Authorised Officer within 72 hours.

The CCTV system must be capable of date, time and vehicle identification. It must be capable of capturing images during daytime and darkness of sufficient quality to enable the identification of any person travelling in the vehicle and be of such quality that it can be used for prosecution purposes, where necessary.

The positioning of the CCTV should be such that the hard disc or data card is not accessible to any passenger travelling in the vehicle. The equipment must be securely fixed such that it cannot be tampered with or damaged by any person travelling in the vehicle.

The CCTV system shall not be used to record conversations between members of the public, since that is highly intrusive, and if any system is equipped with a sound recording facility then that functionality shall be disabled.

All vehicles with a CCTV system shall display prominent notices, visible both outside and inside the vehicle, to inform passengers that a CCTV system is in operation.

The CCTV system must ensure that any recorded data is encrypted and access to the data is password protected or locked and only authorised persons can view any recordings.

An Authorised Officer or Police Officer may, on reasonable notice, examine any camera installation or any footage from the CCTV. The Council shall be permitted to access data where they have received a complaint involving the vehicle or its driver and the complaint cannot be fully investigated without access to the recording. The licence holder shall co-operate with any Police investigation where access to the CCTV footage may assist.

The CCTV system must be capable of recording and storing images for a minimum of 28 days.

### **Miscellaneous**

No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time the licence is in force.

A suitable First Aid kit shall be provided and maintained in the vehicle at all times when in use or available for hire.

A suitable Fire Extinguisher, readily visible and available for immediate use in an emergency, which conforms to British and European standards shall be provided and maintained in the vehicle at all times when it is in use or available for hire.

The proprietor shall notify the Council in writing of any change of his address within seven days of such change taking place.

The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, FPN, civil injunction, or Acceptable Behaviour Contract imposed on

him or if the proprietor is a company or partnership on any directors, company secretary or partners.

If the proprietor permits or employs any other person to drive the vehicle then before that person commences to drive the vehicle the proprietor shall cause that driver to deliver to him their private hire drivers or hackney carriage licence.

Any accident in a vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of person carried therein must be reported as soon as practicable and in any case within 72 hours of the occurrence.

Totally blacked out windows will not be permitted however partially blacked out windows may be allowed at the discretion of an Authorised Officer.

## **Appendix 2: Guidance on the Relevance of Convictions etc**

### **General Principles**

The over-riding consideration for the Council is the promotion of the licensing objectives detailed in this Guidance and in particular public safety. By producing clear and transparent guidelines on the relevance of convictions the Council seeks to maintain the high standard of drivers, proprietors and operators.

The guidance details the Council's stance on the relevance of convictions etc in respect of applications for the grant of new licences, the renewal of existing licences and any existing licence holder convicted etc of an offence during the period of their licence will be subject to same criteria as though they were a new applicant. Therefore in circumstances where a new applicant would have their application refused, an existing licence holder would have their licence revoked. Thus any reference to applicant also applies to existing licence holders except where the Guidance specifically makes a distinction.

Existing licence holders should be aware that if the Council receives notification from the Police that they are being investigated for an offence that would preclude the grant of a licence their licence will be revoked with immediate effect. In the event that no charges are laid against the licence holder, the licence will ordinarily be reinstated for its original duration. In the event that the licence holder is found not guilty, the licence will ordinarily be reinstated for its original duration, save for any previous or ongoing concerns relating to the licence holder's ability to meet the 'fit and proper' test.

In those situations where a new applicant has been charged with an offence but is awaiting trial the decision of an application will be deferred until the trial has been complete or the charges withdraw. If an existing licence holder is charged the Council will decide what action to take in line with the Enforcement part of this Guidance.

If a Court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

For the purposes of this Guidance, the acceptance of a Caution or Fixed Penalty Notice will be treated in the same way as a conviction. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. Any reference to a period free from conviction etc relates to the period commencing from either where a custodial sentence has been imposed from the end of the custodial period or in any other case from the date of conviction etc.

Notwithstanding the existence of this Guidance, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this Guidance, clear and compelling reasons will be given for doing so.

### **Rehabilitation of Offenders Act 1974 (as amended)**

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before rehabilitation occurs, depends on the sentence imposed and not the offence committed.

Despite the above general principles, the 1974 Act does not apply to applicants for drivers licences. This is because the driving of these vehicles is listed as a “regulated occupation” in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

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

### **History**

The Council may take into account an applicant’s history as a licence holder with this, or any other Council. It is recognised that matters which have not resulted in a criminal conviction can and will be taken into account by the Council. In considering whether or not a person is ‘fit and proper’ the Council may consider such matters as the applicant’s complaint history, their compliance with this Guidance, their co-operation with Authorised Officers requests and any other reasonable matters.

### **DVLA Penalty Points**

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

### **New Driver Applicants**

Convictions or cautions for traffic offences will not automatically preclude an applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered.

In cases of less than six unspent penalty points on an applicant’s DVLA driving licence, an application will usually be granted. A licence granted under these circumstances is likely to be issued together with a written warning as to future driving standards required and detailing the likely effect of further offences.



In cases of six to nine unspent penalty points on an applicant's DVLA driving licence, an application will not be granted until at least three years has elapsed since the completion of any sentence imposed.

In cases of ten or more unspent penalty points on an applicant's DVLA driving licence, an application will be refused.

### **Existing Drivers**

In cases of six or more unspent penalty points on an existing driver DVLA driving licence the matter will be referred immediately to the Senior Specialist Advisor for consideration.

### **Major Traffic Offences**

For the purposes of this section, major traffic offences include, but are not limited to:

- dangerous driving
- driving whilst disqualified
- failure to stop after an accident
- driving without valid insurance
- driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc.)

If the applicant has been convicted of one major traffic offence then a licence application will be refused until the applicant has completed a period of at least three years free from conviction.

If the applicant has been convicted of more than one major traffic offence then a licence application will be refused until the applicant has completed a period of at least seven years free from conviction.

Where the combination of offences are considered to be of increased risk to the public, a period longer than seven years free of conviction may be substituted by the Council dependant on the extent of the risk to the public.

If the applicant has been convicted of a combination of three or more offences of no valid insurance and/or driving whilst disqualified then the Council believes that person causes an unacceptable risk to public safety and a licence will be refused.

Where an applicant or existing licence holder fails to disclose motoring offences, even if they have been declared on previous applications or are spent, the Council will deal with this by way of the issuing a warning. However, if the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this Guidance.

### **'Totting up'**

Where an applicant has been disqualified from driving by the Courts under the "totting up" procedure, the Council will refuse an application until there has been a period of five years free of relevant convictions. If the applicant has demonstrated to the Court "exceptional hardship" and avoided a driving disqualification, applications will still be refused until there has been a period of five years free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.

### **Major Traffic Offences Resulting in Death**

The driving offences of causing death by dangerous driving, careless driving, driving under the influence of alcohol or drugs, or driving unlicensed, disqualified or uninsured, will be considered by the Council to be an unacceptable risk to public safety and an application will be refused.

### **Drunkness**

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

### **In Charge of a Motor Vehicle**

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

A single conviction for any alcohol-related driving offence will preclude an application from being granted for a period of seven years from the restoration of the DVLA driving licence.

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

### **Not in Charge of a Motor Vehicle**

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

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

More than two convictions for disorder and/or drunkness will lead to refusal of an application until such time as a period of three years free of convictions.

### **Using a Hand Held Telephone or Hand Held Device whilst Driving**

Where an applicant has a conviction for using a hand held mobile phone or a hand held device whilst driving will not be granted a licence until such time as a period of five years free of conviction.

### **Drug Offences**

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

An applicant with one conviction for any Class A drug related offence, including supplying or trafficking, will be required to show a period of ten years free of convictions.

An applicant with more than one conviction for any Class A drug related offence, including supplying or trafficking, will be considered an unacceptable risk to public safety and an application will be refused.

An applicant with a conviction for any Class B drug related offence, including supplying or trafficking, will be required to show a minimum period of five years free of convictions.

An applicant with a conviction for any Class C drug related offence, including supplying or trafficking, will be required to show a period of at least three years free of convictions.

In all these circumstances the applicant may be required by the Council to undertake drug testing at their own expense to demonstrate that they are not using controlled drugs.

In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

### **Sexual or Indecency Offences**

For the purpose of this Policy, the following offences are considered to involve a high element of risk to the public and any application will be refused;

- rape
- indecent or sexual assault
- assault by penetration
- making, distributing or possession of child pornography
- trafficking and/or preparatory offences
- sexual offences involving children or vulnerable adults
- slavery

In addition the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other relevant barred list.

As drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction for any other sexual or indecency offence not listed above will be refused a licence until such time as they have been free of conviction for a period of ten years.

### **Violent Offences**

The Council considers all violence related offences as a serious risk to the public. Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.

An application will be refused where the applicant has been convicted of a crime which resulted on the death of another person or was intended to cause the death or serious injury of another person.

Where an applicant has a conviction for an offence of violence or connected with any offence of violence including but not limited to;

- any offence involving the possession of a firearm
- any terrorism-related offence
- racially aggravated grievous bodily harm or malicious wounding
- arson
- any offence that may be categorised as domestic violence
- violent disorder or riot

will be refused unless there has been a period of ten years free of conviction.

Where an applicant has a conviction for possession of a weapon (other than a firearm) related offence a licence will not be granted until at least seven years have elapsed since conviction.

Whilst an isolated conviction for a violent offence, other than those listed above, will not normally permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences. An application will normally be refused in cases where an applicant has two or more separate convictions for violent offences.

### **Dishonesty**

Drivers are expected to be persons of trust since it is comparatively easy for dishonest drivers to defraud the public. As members of the public entrust themselves to the care of licensed drivers the Council considers offences involving dishonesty a serious risk to public safety.

An applicant that has been convicted of an offence related to dishonesty will be refused a licence until such time as they have been free of convictions for seven years.

### **Discrimination**

Where an applicant has a conviction involving discrimination, of any form, a licence will not be granted until they have been free of convictions for seven years.

### **Hackney carriage and private hire offences**

Where an applicant has a conviction for an offence concerned with hackney carriage or private hire activity for example the use of a radio scanner a licence will not be granted until they have been free of convictions for five years.

### **Other Offences and Special Circumstances**

If the applicant has declared any other offences not specifically covered by this part of the Guidance or the specific circumstances of the application justify it the application may be referred to the Senior Specialist Advisor for determination in line with the principles of this Guidance.

### **Mitigation and/or Exceptional Circumstances**

Where the Senior Specialist Advisor is considering whether an applicant meets the 'fit and proper' person test, the applicant will be entitled to provide them with written mitigation. The applicant may be requested to attend a meeting with the Functional Lead or the applicant may request such a meeting. Prior to attending the meeting, the applicant will be provided with a written report containing all the information necessary for the Senior Specialist Advisor to make his determination. The report will be provided to the applicant at least five working days prior to the meeting.

## **Appendix 3: Private Hire Operator Conditions**

### **Records**

The operator shall keep a record of every booking of a private hire vehicle invited and accepted by him whether direct from the hirer or by undertaking the bookings at the request of another operator. The records shall be made available for inspection by an Authorised Officer or Police Officer upon request. The records entries must be made before the commencement of the journey and shall include;

- Date and time of the booking
- Date, time and point of the pickup
- Details of the destination
- Name and contact details of the hirer
- Registration number of the vehicle
- Name of the driver allocated for the journey

All records shall be kept by the operator for a period of at least 12 months from the date of the journey.

The operators shall keep written records of the particulars of all vehicles operated by him which include the;

- Type, make, model, colour and engine size of the vehicle
- The date the vehicle was first licensed for private hire
- Vehicle registration number
- Number of seats for passengers
- Owner of the vehicle
- Valid certificate of insurance of the vehicle
- A valid VST
- A valid road fund licence
- Method of charging i.e. whether or not a meter is fitted
- Vehicle plate number.

The operator will securely retain a copy of the licences of all drivers (whether private hire or hackney carriage) engaged to work for them and make them available for inspection by an Authorised Officer or Police Officer upon request.

### **Display of Licence Plates**

The operator shall ensure that the licence plates issued by the Council are affixed to such position as shall be approved by an Authorised Officer.

The operator shall ensure maintenance of such licence plates in clean and legible conditions and shall inform the Council immediately should it be lost or broken or become defaced.

### **Miscellaneous**

The operator shall ensure that any staff they employ act in a civil and courteous manner at all times.

The operator shall ensure that a private hire vehicle which has been hired shall be in attendance at the appointed time and place unless delayed or prevented by sufficient cause.

The operator must not accept a booking by any person to hire a private hire vehicle unless the passenger or someone on his behalf previously requested the hiring by any means, for example telephone, email, text or personal call, to the licence holder.

The operator must not accept a request for hire (a booking) which has been communicated to them via a driver. For clarification, the operator must not accept a

booking made by a driver on behalf of a potential customer where the person approached the driver in the street seeking to hire the vehicle.

The operator must ensure that none of his staff or agents tout for business on the street, touting in this contact means approaching any person in the street and asking if they want to book a vehicle.

The operator is required to undertake reasonable checks as to fitness or suitability of their employees or agents who take bookings.

The operator shall ensure that every driver engaged has obtained a private hire drivers licence obtained by the same Licensing Authority which issued the operator's licence. If any documents expire the operator must ensure that driver does not work until the documents have been submitted to the operator.

The operator may only operate from an address within the Borough they are licensed. Upon the grant of a licence the Council will specify the address from which the operator may operate.

The licence must be kept in the possession of the operator and must be provided when requested by an Authorised Officer or any Police Officer. In the event of loss or damage to this licence the Council must be informed immediately so that a replacement licence can be issued. The licence must not be altered or defaced in any way.

The operator must not operate more vehicles than the maximum number specified on their licence. If the number of vehicles they operate increases during the period of their licence the operator shall apply to the Council for a variation and an amended licence fee (pro rata to reflect the increase) will apply for the remainder of their licence.

The operator shall keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access whether for the purpose of booking or waiting. Any waiting area provided by the operator shall have adequate seating facilities.

The operator must not refuse a booking because the person wishing to make the booking proposes that an assistance dog is to travel with them. The operator must not make an additional charge for the carriage of a passenger's assistance dog.

The operator may only trade under this licence using one of the following, his name, the company's name, the trading name or one of the names which the licence holder included on the application form or another trading name provided that the operator notified the Council at least fourteen days prior to the intended change of name.

The operator must notify the Council in writing within seven days of the event occurring;

- Any change to the licence holders personal details including home address or if a company the registered address, contact telephone number or email address.
- If the licence holder is charged with any criminal offence.
- Any conviction, caution or FPN given to a person or in the case of a company any director or company secretary or any partner for any criminal offence.

The operator shall ensure that all drivers have a badge issued by the Council and that the driver wears the badge which is distinctly visible at all time whilst available for hire.

The operator shall notify the Council forthwith and in writing of any complaints, concerning a contract for hire which call into question the suitability of a driver to hold a licence. Such notification must include the action taken or proposed as a result of the complaint.

#### **Appendix 4: Right to Work**

The Council is under a legal duty to ensure that driver and operator licences are only issued to applicants who have lawful immigration status and the right to work in the UK. By law, the Council cannot issue a licence to any applicant that does not satisfy this requirement.

All applicants will need to attend the Council Offices where an Authorised Officer will check their original valid documentation evidencing their right to work in the UK. The applicant must attend in person and bring evidence of their right to work in the UK. Only certain types of documentation are acceptable.

##### **For applicants who are British Citizens**

Need to provide a British passport confirming they are a British Citizen. If they do not have a British passport they can produce any of the other documents contained within List A.

##### **For applicants who are not British Citizens but have no restrictions on their right to work in the UK**

Need to provide any of the other documents contained within List A.

##### **For applicants who have restrictions on their right to work in the UK**

Need to produce any of the documents contained within List B. If the documentation proves a right to work expires prior to the normal licence expiry date the licence will only be granted for the period the Council have proof of a right to work.

The Council will not accept a visa that confirms their right to reside in the UK but which is attached to an expired passport. The applicant will need to apply to the Home Office to obtain acceptable proof, such as a biometric residence permit. Once a valid application to the Home Office has been confirmed, a six month licence can be granted to allow time for the Home office to process the application.

An applicant must bring original documentation (not a photocopy) and it is the applicant's responsibility to make sure they can provide acceptable forms of documentation.

The Authorised Officer will check that the documentation is acceptable based on either List A or List B (depending on your circumstances), check that the document is an original and relates to the person providing it, and take a photocopy for Council's records.

If the documentation provided demonstrates that the applicant has a permanent right to work in the UK (from List A) they will not be required to produce documentation for future applications. In other cases, the applicant will be required to provide documentation when they next apply to renew their licence so their right to work can be verified again at that point in time.

## List A

- (i) A passport showing the holder, or a person named in the passport as the child of the holder, is a British Citizen or a citizen of the UK and Colonies having the right of abode in the UK.
- (ii) A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- (iii) A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- (iv) A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- (v) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- (vi) A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- (vii) A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (viii) A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (ix) A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (x) A certificate of registration or naturalisation as a British Citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

## List B

- (i) A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
- (ii) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- (iii) A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
- (iv) A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.



(v) A Certificate of Application issued by the Home Office under regulation 17(3) or 18A(2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit.

(vi) A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in time application, appeal or administrative review and which is outstanding.

## **Appendix 5: Private Hire Drivers Conditions of Licence**

The driver shall behave in a civil and orderly manner and shall take reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the licensed vehicle.

The driver shall be clean and tidy in appearance at all times and dressed smartly with long or short sleeved shirt or blouse and long trousers, tailored shorts or skirts. Suitable footwear for driving must be worn.

The driver shall ensure that the vehicle is presented in a clean and tidy condition for each journey.

The driver must carry assistance dogs when required unless they have a Certificate of Exemption from the Council.

The driver of a designated wheelchair accessible vehicle shall to carry a passenger while in the wheelchair and not to make any additional charge for doing so. If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passengers' luggage and/or wheelchair into and out of the vehicle. The driver must ensure that any occupied wheelchair being transported in a wheelchair accessible vehicle must be safely secured using the restraint system carried in the vehicle, provided such system is compatible with the wheelchair being transported.

A driver who has agreed to be in attendance at a certain time at a specified place or whose operators has informed them must be in attendance at a certain time and place shall unless delayed or prevented by some sufficient cause must so attend.

The driver must carry in the vehicle any luggage to which the passenger requests provided that it can be properly secured with the luggage constraints.

The driver must provide reasonable assistance in loading and unloading such luggage.

The driver must provide reasonable assistance in removing any luggage to or from of an entrance of any building or place the passenger may be taken up or set down.

A driver must provide reasonable assistance to any passenger in alighting or entering the vehicle.

The driver of a vehicle equipped with a taxi meter shall set the meter into operation at the point at which the hirer commences his journey unless the hirer pre-agrees a fare.

The driver shall not demand for any hirer a fare in excess of any previously agreed for that hirer between the hirer and the operator or if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare the fare shown on the face of the taximeter.

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

The driver shall at all time when acting as a private hire driver wear the badge issued by the Council in such a manner to be distinctly visible. The driver shall not lend the badge to any other person or cause or permit any other person to wear it.

The driver must not allow a passenger into their vehicle unless they have first confirmed that there is a booking in place for that passenger.

Where any of the following occur the driver must notify the Council in writing so that the notification is delivered to the Council within seven days;

- Any change to the driver personal details including home address, contact telephone number or email address
- If the driver is charged with any criminal offence
- Any Cautions or FPN given for any criminal offence
- If they change from one private hire operator to another.

The driver shall not at any time permit the noise from any radio or sound system in the vehicle to be a source of annoyance or nuisance to any person, whether inside or outside the vehicle. The driver must turn off their radio/stereos if requested by a passenger.

The driver shall not between the hours of 23:30 and 07:00 sound his horn to notify the hire of his presence.

The driver shall not, without the consent of the hirer, convey any other person in the vehicle other than the hirer.

The driver must supply on request his badge number or plate number to any person on request.

A driver stopped by an Authorised Officer or a Police Officer must produce their licence on demand.

The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed or allow the plate to be so defaced as to make any figure or information illegible.

The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route unless otherwise instructed by the hirer.

The driver must not cause or permit the vehicle to stand on a public road so as to suggest that it is plying for hire.

The driver shall not smoke in the vehicle.

The driver must not use a mobile phone whilst driving unless it is designed for hands free operation.

The driver shall not convey or permit to be conveyed any greater number of persons than the number specified on the vehicles licence.

The driver must return forthwith all licence, badges and plate to the Council when the driver ceases to be licensed.

The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their driving ability or the health or safety of themselves or any passengers.

The driver shall ensure that he complies with the law and best practice in relation to seat belts in relation to children under the age of fourteen.

## **Appendix 6: Hackney Carriage Byelaws**

### **Extracts from the Byelaws and Resolutions of the Council**

made with respect to hackney carriages (taxis)  
in the Borough of Eastbourne (i.e. paragraph  
numbers relate to the 1970 Byelaws as  
amended)

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

1. Every proprietor of a hackney carriage shall:
  - a. cause the number of the licence granted to him in respect of the carriage to be displayed:-

- (i) inside the carriage in such a position as to be clearly legible by the hirer throughout the hiring; and
- (ii) outside the carriage by securely fixing at the rear of the carriage in a position above the rear bumper and to the off-side of the centre line of the vehicle, the authorised hackney carriage plate issued to him by the Council;
- b. 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;
- c. not cause or permit the vehicle to ply for hire with any such plate so defaced that any figure or material particular is illegible.

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

2. Every 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 means of opening and closing not less than one window on each side;
  - d. cause the seats to be properly cushioned or covered;
  - e. cause the floor to be provided with 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;
  - 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.
  
3. Every proprietor of a hackney carriage shall cause the carriage to be provided with a taximeter. The taximeter shall be so constructed, attached, and maintained as to comply with the following requirements, that is to say:-
  - (i) the machinery of the taximeter shall be brought into action by moving a lever or other device;
  - (ii) until the machinery of the taximeter is brought into action no fare shall be recorded on the face of the taximeter;
  - (iii) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity a fare not exceeding the rate or fare which the proprietor or driver is entitled to

demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf;

- (iv) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (v) the taximeter shall be so placed that all letters and figures on the face thereof may be seen by any person conveyed in the carriage and for that purpose suitable means of illumination shall be provided during any period of hiring;
- (vi) the taximeter and all 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.**

- 4. Every driver of a hackney carriage provided with a taximeter shall:-
  - a. as soon as the carriage is hired by distance and before commencing the journey, bring the machinery of the taximeter into action by moving the lever or other device with which the taximeter is fitted;
  - b. cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined in Section 1 of the Road Transport Lighting Act 1927, and also at any other time at the request of the hirer.
- 5. 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.
- 6. Every driver of a hackney carriage for which stands are fixed by any byelaws in that behalf shall, when plying for hire in any street and not actually hired:
  - a. proceed with reasonable speed to, and station the carriage on, one of such stands;
  - b. if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
  - c. on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;
  - 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.
- 7. Every proprietor or driver of a hackney carriage who shall have agreed or shall have been hired to be in attendance with the carriage at an appointed time and place, shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such time and place.

8. If a badge has been provided by the Council and delivered to the driver of a hackney carriage, either with the licence granted to him by the Council or afterwards, he shall, when standing, plying or driving for hire, wear that badge in such a position and manner as to be plainly and distinctly visible.
9. Every driver of a hackney carriage so constructed as to carry luggage shall when requested by any person hiring or seeking to hire the carriage:-
  - a. convey a reasonable quantity of luggage;
  - b. afford reasonable assistance in loading and unloading;
  - c. afford reasonable assistance in removing it to or from the entrance of any house, station, or place at which he may take up or set down such person.
10. Every proprietor or driver of a hackney carriage who shall knowingly convey in the carriage the dead body of a person shall, immediately thereafter, notify the fact to the Council.
11. 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 current tariff. The rate of fare being calculated by distance, unless the hirer expresses 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 which it may not be possible to record on the face of the taximeter.
12. (1) Every proprietor of a hackney carriage plying for hire for which any fares are fixed by any byelaw in that behalf shall:-
  - a. cause a statement of such fares to be painted or marked on the side of the carriage, or on a plate affixed thereto, in clearly distinguishable letters and figures;
  - b. renew such letters and figures as often as is necessary to keep them clearly visible.(2) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this 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 charges to be made in respect thereof.**

13. Every proprietor or driver of a hackney carriage shall, immediately after the termination of any hiring, carefully search the carriage for any property which may have been accidentally left therein.

14. Every 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:-
- (i) carry it within twenty four 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;
  - (ii) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to one shilling 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.
15. Every person who shall offend against any of these byelaws shall be liable, on summary conviction, to a fine not exceeding 100 pounds and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

1<sup>st</sup> May 1989

Link to Hackney Carriage Byelaw is [here](#) or can be viewed on [www.lewes-eastbourne.gov.uk](http://www.lewes-eastbourne.gov.uk) and search for byelaws.