



**MELTON BOROUGH COUNCIL**

**HACKNEY CARRIAGE AND PRIVATE HIRE  
LICENSING POLICY 2018**

MEEA committee 8<sup>th</sup> March 2018.....

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## **1. Introduction**

### **1.1 Powers and Duties**

Melton Borough Council (the Council) is responsible for exercising the licensing and associated function relating to Hackney Carriage and Private Hire Activities, in undertaking this function the Council will have particular regard to:

- Town and Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Equalities Act 2010
- Road Traffic Acts
- Human Rights Act 1998
- Health Act 2006
- Immigration Act 2016
- Melton Borough Council Byelaws (appendix E)
- Melton Borough Council's Constitution

This Licensing Policy has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, as amended and the Town and Police Clauses Act 1847, which places on Melton Borough Council the duty to carry out its functions in respect of Hackney Carriage, Private Hire vehicles and combined driver's licences.

This document sets out the policy that the Council will apply when exercising its discretion in making decisions about hackney carriage and private hire licensing and associated matters.

### **1.2 Best Practice Guidance**

The Department for Transport has national responsibility for hackney carriage and private hire legislation outside London in England and Wales. The DFT Best Practice Guidance is directed at Local Authorities and clearly states that each Local Authority will decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes. It represents the Department's views about what constitutes 'best or good practice' in terms of hackney carriage and private hire licensing. When formulating this policy this document has been taken into account.

### **1.3 Objectives**

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

- The protection of public safety;
- The establishment of a professional and respected hackney carriage and private hire trade;
- The safety and health of drivers and the public;
- Access to an efficient and effective public transport service;
- The protection of the environment;

- To encourage high standards of service and competence in the hackney carriage and private hire trade;
- To encourage a 'mixed' fleet of vehicles to meet the various needs of the public.

In order to meet these policy objectives the Authority aims to:

- Ensure that drivers are trustworthy, physically fit and capable of driving their vehicles;
- Ensure that drivers display good standards of courtesy, dress and behaviour at all times and comply with the council's standards on equality issues;
- Check that vehicles are suitable for the purpose, safe to operate and maintained to the appropriate standard;
- Ensure that operators maintain adequate records for the benefit of passengers and drivers;
- Ensure that all parts of the trade operate within their legal requirements;
- Provide members of the trade and those wishing to join it with relevant information and advice;
- Ensure confidentiality.

The aim of the licensing process in this context is to regulate the hackney carriage and private hire trade in order to promote these objectives and to set high standards of which the Council and the trade should be proud. It is the Council's wish to facilitate well-run and responsible businesses which display sensitivity to the needs of the general public.

#### 1.4 Policy Status

In exercising its discretion in carrying out its regulatory functions, the Licensing Authority shall have regard to this policy document and the objectives set out above.

Despite the existence of this policy, each application or enforcement measure shall be considered on its own merits, using the policy as a main guideline. Where it is necessary for the Licensing Authority to depart substantially from its policy, clear and compelling reasons shall be given for doing so.

The Council will consult widely on the adoption of this Policy. It will be kept under review, but will formally be reviewed on a regular basis (every five years). In addition, it will be reviewed following any changes in legislation relevant to the area of Hackney Carriage and Private Hire Licensing and following any change in guidance from the Department for Transport. Appropriate consultation will take place before any major changes to this Policy.

#### 1.5 Consultation

The Council will consult on this policy with groups and organisations that have an interest in the provision of hackney carriage and private hire services, including the trade itself, residents and enforcers. All the views and concerns expressed will be taken into consideration.

The following organisations and people will be consulted in order to develop this policy:

- MBC Licensed Drivers
- MBC Licensed Proprietors
- MBC Licensed Operators
- MBC Councillors
- MBC Parish Councils

- MBC Town Area Committee
- Neighbouring Authorities
- Melton **Town Centre** Partnership
- Melton Chamber of Trade
- Local Businesses
- Local Residents
- Health Authority
- Leicestershire Police
- Leicestershire County Council
- Age UK
- The National Private Hire Association
- General Public

## **2. Vehicles**

### 2.1 Hackney Carriage and Private Hire licensing

A hackney carriage is a public transport vehicle with no more than 8 passenger seats which is licensed to 'ply for hire'. This means that it may stand at authorised ranks or be hailed in the street by members of the public. Private hire vehicles must also carry no more than 8 passengers but they must be booked in advance through an operator and may not ply for hire in the street.

Hackney carriage and private hire vehicles play an important part in local public transport, providing a highly flexible form of transport that can play an increasingly important role in improving accessibility. Hackney carriages and private hire vehicles are used by all social groups.

### 2.2 Specifications and Conditions

The Hackney Carriage and Private Hire trades are free to put forward any vehicle of their choice for licensing and the Council does not seek to limit the type of vehicles in so far as they must meet the criteria. In this way there is flexibility for new vehicle types to be readily taken into the trade.

The Council is empowered to impose such conditions, after consultation, as it considers necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. It is appropriate for the Council to set criteria for the external and internal condition of the vehicle, provided that these are not unreasonably onerous.

Vehicles will be licensed for the carriage of up to eight passengers, purpose built vehicles are amongst those which this Council will license as hackney carriages. Additional specifications or conditions may be applied to individual vehicles where necessary.

Appendix A sets out the minimum standards that this Authority has adopted for a vehicle specification that will apply in respect of all vehicles licensed by Melton Borough Council.

### 2.3 Maximum age of vehicles

In the interests of the public, to improve reliability, safety, air quality and the overall standards of vehicles licensed by the Council, vehicles on first licensing by Melton Borough Council will be less

than 6 years old. Vehicles can continue to be licensed until they are ten years old so as long as they continue to meet the specifications in Appendix A.

Purpose built vehicles, that is, London style taxi cabs which have been approved by the public carriage office and vehicles which have been specially manufactured or professionally adapted to carry a wheelchair can be licensed until they are 12 years old if they continue to meet the specifications in Appendix A.

In exceptional circumstances; an application to renew the licence of a vehicle, that holds an existing licence with the Council, can be continued to be licensed after that vehicle exceeds the age limits stated in paragraph 2.3 for a further 12 months. Such applications will be considered on individual merit taking into consideration the overall condition of the vehicle. Renewal of the vehicle licence will only be approved, by exception, where a vehicle is in exceptional condition, both mechanically and in appearance, inside and out, whilst also continuing to meet the specifications in Appendix A.

## 2.4 Vehicle Testing

There will be a compliance test for all vehicles, on application and annually upon renewal; these tests must be conducted by an approved taxi testing station no more than 30 days prior to the date of application or date of licence expiry. All licensed vehicles over 8 years old will be subject to 2 compliance tests a year, 6 months apart. Stretched limousines, special vehicles and any other vehicles determined by an Authorised Officer will be subject to 2 compliance tests per year 6 months apart.

Three taxi testing stations are approved by the Council; no other station may be used except in the case of stretched limousines and other special vehicles which may from time to time need to be tested elsewhere. This requirement is in addition to the M.O.T. test. Further details can be found in the vehicle specification at Appendix A.

## 2.5 Trailers

Any trailers used must be inspected by the Council and carry a licence plate. There will be an extra charge for additional licence plates.

All other matters regarding trailers are found in Appendix A.

## 2.6 Environmental Considerations

The Department of Transport Guidance asks licensing authorities to consider how their vehicle licensing policies can and should support any local environmental policies, bearing in mind the need to ensure that the benefits outweigh the costs. Taxis and private hire vehicles are an essential form of transport within the Melton Borough area and as such already play their part in helping to improve environmental improvement by achieving higher occupancy rates than many private cars. It is important that emissions from taxis are reduced as far as possible and a reduction will be made to the licensing fee for licensed vehicles that are fuelled by LPG, petrol/+electric or compressed natural gas. The reduction will be 25% off the current fee. This is to actively encourage the use of these vehicles for hackney carriage or private hire.

The Council have given careful consideration to the recommendation in the Department for Transport Best Practice Guidance that, in the interests of the environment, tougher emissions standards should

be introduced for all licensed vehicles. However, Guidance suggests that local authorities would need to carefully and thoroughly assess the impact of introducing such a policy, they should bear in mind the need to ensure the benefits of introducing such a policy outweigh the costs. Therefore, the Council currently have no plans to introduce any stricter emission test than that required by an M.O.T.

The age policy will go some way to address the issue of restricting CO2 emissions by ensuring that older and therefore less efficient vehicles will not be licensed.

## 2.7 Accessibility

The Council is committed to social inclusion and ensuring a wide variety of opportunities are available to all to enjoy a high quality of life. It fully supports the Equality and Human Rights Commission that:

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

The Equality Act 2010 requires the providers of public transport services, including the drivers and operators of taxis and private hire vehicles, to ensure people with disabilities are not discriminated against (or treated less favourably). Failure to comply with these duties may lead to any aggrieved person taking legal action in the courts against the driver and operator.

In order to help achieve these duties, the Council will actively seek to encourage Proprietors and Operators, especially those with ten or more vehicles, to provide at least one vehicle which is fully wheelchair accessible, that is, capable of carrying a person who remains in the wheelchair with sufficient provision to secure the wheelchair to the floor of the vehicle. A reduction on the vehicle licence fee for a fully wheelchair accessible vehicle will be made. This will be 50% off the current fee. Specifications for wheelchair accessible vehicles can be found in Appendix A.

The Council considers it very important that people with disabilities have access to all forms of transportation and will keep this section of the policy under review.

## 2.8 Exemptions for a private hire vehicle to display a plate

The Local Government Miscellaneous Provisions) Act 1976 requires that private hire vehicles and drivers display the relevant licence plate and badge issued by the Licensing Authority. The same legislation permits a Licensing Authority to exempt the display of private hire plates.

The open display of these identifying plates is important in terms of protecting both the public and the trade. However there are limited occasions when the identification of a vehicle may have the opposite effect both in terms of public safety and commercial implications. In certain circumstances it is accepted that it would be inappropriate to have a plate displayed on a Private Hire vehicle and exemptions will be granted where there is good reason.

It is not intended that all private hire vehicles should have access to this exemption. Therefore it is only considered that the issue of exemption certificates will be made where the requirements of Appendix A section 7 are met and where it is certain that the safety of the public will not be compromised.

## 2.9 Advertising and signage

Within Melton Borough Council area, both hackney carriages and private hire vehicles are required to display both an internal and an external plate. This is a key feature in helping to identify that vehicles are properly licensed. All hackney carriages must carry an illuminated roof mounted sign indicating that they are a taxi.

No private hire vehicles will have a roof sign. Private Hire vehicles will display, on both sides, private hire signs issued by Melton Borough Council.

Advertising on private hire vehicles will be kept to a minimum with more flexibility being allowed for hackney carriages. Full details of advertising are set out in Appendix A.

## 2.10 Meters and Fares

All hackney carriages will have an electronic fare meter fitted by an installer approved by the Council. The meter will be calibrated and sealed on the Council's behalf in accordance with the current table of fares. A certificate of calibration will be provided to the Licensing Department.

Licensing Authorities have the power to set fares for journeys within their area (there is no power to set private hire fares). The Council will review fares regularly in line with the Department for Transport's Best Practice guidance.

Fares are normally reviewed by the Council following representations from the taxi trade.

Unless there are exceptional circumstances which would justify a further increase fare scales will be reviewed no more than once per year. Further details can be found in Appendix A.

## 2.11 Applications

A vehicle licence expires 12 calendar months from the date of issue. Any application for renewal should be made prior to the licence expiry date. Failure to renew prior to the expiry of a licence will result in the vehicle being unable to be used as a hackney carriage or private hire vehicle until such time as a new application has been made and a licence granted and issued. Such applications must comply with taxi policy requirements to licence a new vehicle.

All renewal applications must be submitted together with valid supporting documents and necessary fee, no earlier than 30 days but not later than 5 days before expiry date.

Other than in exceptional circumstances, if a vehicle licence is allowed to expire the full application process must be treated as a new application.

## **3. Drivers**

### 3.1 Dual Licences

The Council will issue dual licences in respect of both hackney carriage and private hire drivers. This provides one licence and therefore gives drivers the flexibility to drive either vehicle.

### 3.2 Age and Experience



In line with the Department of Transport's guidance, there is no maximum age for drivers provided that regular medical checks are made. Any applicant must have held a full European Driving licence for 3 years. However, in certain circumstances the Council may consider any application, dependant on individual merit. Under no circumstances will a hackney carriage and private hire driver's licence will be issued to anyone under the age of 18 years or who has not held a full European Driving licence for at least 12 months.

### 3.3 Driving Standards

Any person driving the public will be expected to have the highest standard of driving skills. The council will take into account all convictions for driving offences and any information or evidence that driving skills fall below these high standards. Applicants and drivers may be required to take a Driving Skills test in certain circumstances. Further information regarding the use of the Driving Skills test can be found in Appendix B.

### 3.4 Medical Examination

A medical certificate is required before Driver's licence granted. All medicals will be at the expense of the applicant.

For further details see Appendix B.

### 3.5 Driver Knowledge Tests

There will be a driver knowledge test for all new drivers. In order to maintain the high standard that the Council expects of its drivers, a licence will not be granted unless the Council is satisfied that the applicant is a fit and proper person. In this context a driver's ability to pass these tests are seen as a fundamental skill in providing a quality service for passengers, see Appendix B.

There will be a separate charge for this test.

### 3.6 Disclosure and Barring Service Disclosures

These will be at the level of Enhanced Disclosures as these include details of spent convictions and police cautions. These will be obtained every three years in line with Department of Transport guidelines. Drivers are obliged to report to the Council any new convictions.

The Rehabilitation of Offenders Act 1974 has been amended to exclude Taxi Drivers; therefore applicants are required to disclose all convictions cautions and prosecutions, endorsements and fixed penalty notices.

Disclosure and Barring Service reports serve to confirm details provided by an applicant on the applications form. Any discrepancy between the offences an applicant lists on their application form and those confirmed by the DBS will be seen as a serious issue and could result in the application being referred to the Licensing and Regulatory Committee for consideration.

In the case of an overseas applicant where it is not possible to obtain an enhanced disclosure from the Disclosure and Barring Service, a Certificate of Good Conduct must be provided from the relevant embassy or legation. The applicant will be responsible for any translation costs.

This Council is a registered DBS body and has a robust system for checking applicants and their documentation and only checks made by this Council will normally be accepted.

An application and the appropriate fee for a drivers licence MUST be submitted to the Council either before / at the time of submission of a DBS (to justify running the DBS check). DBS forms will not be sent off without first commencing the application process.

DBS results should be current upon submission of an application and in any case **within 4 weeks of issue**. However, a pragmatic approach is supported and consideration will be given to the acceptance of a Disclosure and Barring Service report from another Authority, where it is current and meets the terms of the enhanced check.

From 1<sup>st</sup> April 2018 all drivers MUST subscribe to the DBS update service for new and renewal applications. This means that, with the Driver's permission, instant checks can be done electronically every three years from the date of original issue or where deemed necessary.

It is the Drivers responsibility to make sure that the subscription is maintained. Failure to maintain the subscription will cause the certificate to expire and the full DBS process will have to be undertaken.

The Council is bound by rules of confidentiality, and will not divulge information obtained by third parties. Applicants will receive the report and must bring it into the Council for verification.

In line with Department of Transport guidance this Council will consider each case on its own merits but a particularly cautious view will be taken of any convictions relating to dishonesty, violence, racial incidents and especially sexual attack. See the Guidance Relating to Convictions, Cautions and Prosecutions at Appendix B(2).

### 3.7 Equalities

Melton Borough Council condemns all incidents of harassment whether racist, religiously motivated, homophobic or due to gender or disability, including dementia, whether perpetrated by Council Staff, employees agents, third parties or those involved in providing licensed taxi service, whether Hackney Carriage or Private Hire.

A serious view will be taken of all incidents of this nature including the possession of inflammatory material and inappropriate use of language. All offences will be taken seriously because of the significant social damage done by these offences. If incidents are reported to the Council then they will be investigated and where expedient, enforcement action will be taken against the perpetrator.

The Authority intends to abide strictly by this policy and comply with not only the legal requirements but also the spirit and intent of the legislation.

### 3.8 Accessibility/Equality Awareness

Drivers, Proprietors and Operators have a duty under Equality Act 2010 to ensure that disabled people are not discriminated against or treated less favourably than others. All new applicants will be required to undergo disability awareness training within 12 months of obtaining a Driver's Licence. The Council seeks to bring this policy in line with general Council Policy and ensure that all services are, as far as it is possible, accessible to all members of the public as defined in Appendix B.

### 3.9 Application for Private Hire and Hackney Carriage Licences

All applications for Private Hire and Hackney Carriage licences are issued for three years unless the Council decides it appropriate in the circumstances of the case that the licence should be for a lesser period.

When looking at an application for a 3 year licence, the decision maker (Licensing Officer or Committee) will consider first whether the applicant is fit and proper to hold a licence. If they are not then the application will be refused. If they are fit and proper, the decision maker will then consider whether it is appropriate, in the circumstances of that particular applicant that the licence should be granted for a lesser (1 year) period.

### 3.10 Application for Operators' Licences

All Operator Licences will be issued for 5 years unless the Council decides it appropriate in the circumstances of the case that the licence should be for a lesser period.

### 3.11 Conditions for 3 and 5 year licences

All 3 and 5 year licences will have attached to them all the conditions which would apply to a one year licence. In addition there is a requirement that, after each 12 month period, the driver/operator completes a declaration form for the Council detailing all convictions, cautions, reprimands, warnings and fixed penalty notices. Drivers will also be required to undergo a DVLA check at the end of each 12 months.

All applications must be made on Melton Borough Council application forms. Licences will be issued, as far as possible, within 5 working days of receipt of all the documentation.

### 3.12 Renewals

If the driver's licence has expired, the full application process must be repeated, unless there are exceptional circumstances.

All applicants should ensure that all documentation reaches this office a full 5 working days before the licence expires.

### 3.13 Code of Good Conduct and Dress Code

In order to promote the licensing objectives the Council has adopted a Code of Good Conduct for Drivers which should be read in conjunction with other statutory and policy requirements set out in this document. The full code can be found at Appendix B(1).

### 3.14 Convictions/Cautions/Prosecutions/Endorsements and Fixed penalty notices.

When determining applications for licences this Council will take into account all previous offences and any other matter that the Council considers relevant. See Guidance Relating to the Relevance of Cautions, Convictions and Prosecutions in Appendix B (2).

## **4. Private Hire Operators**

#### 4.1 Operators Licences

Any person who operates a private hire service must apply to the Council for an Operator's Licence. A person who is a hackney carriage proprietor who permits their hackney carriages to be used for pre-booked journeys will not require a Private Hire Operators License. The objective in licensing operators is public safety. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

Private Hire operators, based outside of London, may sub-contract bookings to other operators based in different districts or in London or Scotland; however, it is an offence for such private hire operator to sub-contract a booking knowing that the operator to whom it is subcontracted would operate a private hire vehicle where either the vehicle or the driver was not licensed appropriately. A private hire operator must ensure that every private hire vehicle is driven by a person who holds a driver's licence.

#### 4.2 Record Keeping

Operators are required to keep records of each booking, including the name of the passenger, the start and the destination of the journey, the name of the driver and the number of the vehicle. This would enable checks to be made in the event of the need to investigate an incident or for enforcement.

#### 4.3 Licence Duration

A private hire operator's licence will be granted for a period of five years. However the Council have the power to grant a licence for a lesser period, should this be considered appropriate in the circumstances of the case.

#### 4.4 Address from which an Operator may operate

An operating centre is where bookings are taken and records are kept. The operator must inform the Council in writing of any change of this address (whether this is a home address or the address from which he/she operates).

The Council will not grant an operator's licence for any address outside the area of Melton Borough Council. This is to ensure that proper regulation and enforcement measures may be taken by the Council it is in no way intended to be a restraint on the trade. Operator specification can be found at Appendix C.

### **5. Byelaws**

Bye laws with respect to hackney carriages within the Borough of Melton were made under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875 by Melton Borough Council. These Bye Laws are available on Melton Borough Council website and Appendix E.

### **6. Disciplinary and Enforcement Measures**

#### 6.1 Enforcement

In pursuance of its objective to encourage responsible Hackney Carriage and Private Hire businesses, the Melton Borough Council will operate a firm but fair enforcement and disciplinary regime, with a view to balancing the promotion of public safety with the need to permit operators and individuals to safeguard their livelihood without undue interference.

It is recognised that most people want to comply with the law, accordingly; consideration will be given to alternative action to prosecution to ensure that those regulated comply with the law. In general action and enforcement will be carried out by the Council's Licensing & Compliance officers under Delegated authority. As such, the Council will only intervene in cases where it is deemed to be necessary and proportionate to do so.

See the Council's Hackney Carriage and Private Hire Disciplinary and Enforcement Policy which is attached as Appendix D.

## **7. Fares**

### 7.1 General

Licensing Authorities have the power to set taxi fares within their area (there is no power to set PHV fares). The Department of Transport sees it as good practice to review these fares at regular intervals.

### 7.2 Prescribed Rates

Taxi fares are set as a maximum, and in principle, are open to downward negotiation between passenger and driver. The driver of a Hackney Carriage, whether by agreement or not, must not charge any fare greater than the rate prescribed by the Council. The driver/operator of a private hire vehicle may agree with the hirer as to the fare for a particular journey.

### 7.3 Table of Fares

The table of authorised fares will be displayed in each Hackney Carriage so that it is easily visible to all hirers.

### 7.4 Review

Fare rates are only normally reviewed following representations from the trade or from any section of the trade, however the fares will not normally be reviewed more than once a year unless there are exceptional circumstances which would justify a further increase, for example a particularly sharp increase in petrol/diesel prices.

### 7.5 Receipts

A Hackney Carriage Driver must, if requested by the passenger, provide him/her with a receipt for the fare paid.

## **8. Rights of Appeal**

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

Where an applicant is aggrieved by the Council's decisions to refuse to grant, refuse to renew, suspend or revoke a licence there is a right of appeal to the Magistrates' Court which must be lodged within 21 days. Any appeal must state the grounds on which an appeal is made.

In certain circumstances there is a right of appeal to the councils 'Appeals Committee'.

## **9. Complaints**

Melton Borough Council welcomes comments from the general public on all aspects of hackney carriage and private hire vehicles and drivers, as well as from members of the trade. These are of a positive help to the Council and provide valuable assistance in continuing to provide a high quality service. This is aimed at giving confidence to the general public that their views are valuable. All complaints will be taken seriously and investigations will be made and appropriate action taken. All complaints will be treated in the strictest confidence.

In order to facilitate this, a notice will be exhibited in all taxis giving details of the Council's Licensing Department, where a complaint can be made. This will be a condition of the vehicle licence.

## **10. Grandfather Rights**

Grandfather Rights will be granted to any existing licensed vehicle which would otherwise fail any new policy requirement in respect of age. This means that any purpose built vehicles licensed at the time this policy comes into force, can continue to be licensed in line with the current policy. Any wheelchair accessible vehicles will benefit from the new policy in that, providing they meet vehicle specification, they can continue to be licensed until they are 12 years old.

## **VEHICLE SPECIFICATION**

### **1. General**

All Hackney Carriage and Private Hire vehicles shall comply in all respects with the requirements of this policy. This is in addition to the requirements of road traffic regulations and legislation relating to motor vehicles, including Council bye laws.

All vehicles shall be fitted with right hand drive, with the exception of Limousines and Special Vehicles where special conditions will apply.

Vehicles must have no damage affecting the structural safety of the vehicle. Any vehicle written off for insurance purposes will only be licensed at the discretion of an Authorised Officer.

All vehicles shall be maintained in sound and roadworthy condition at all times and serviced in accordance with the manufacturers recommendations.

In line with developments in vehicle technology, vehicles will no longer be classified by Cubic capacity but by power output in Kw as defined in the vehicles V5C Registration Certificate  
All vehicles will be of a Maximum net power output not less than 57Kw.

Vehicles must be suitable for carrying not less than three passengers and not more than eight passengers in comfort and in addition have adequate luggage room.

### **2. Maintenance and Condition of vehicle**

The exterior of the vehicle should be maintained at all times in a clean, safe and proper manner. In particular the exterior of the vehicle should be:

- Clear of large and/or sharp edged dents;
- Free of rust;
- Free of unrepaired damage (except where an Authorised Officer has agreed a time period for repairs);
- Have uniform paintwork equivalent to that applied by the manufacturer;
- Be maintained in an acceptable state of cleanliness.

The Interior of the vehicle shall be maintained in a clean safe and proper manner at all times in particular it should be:

- maintained in an acceptable state of cleanliness;
- Free of all stains to the upholstery;
- If seat covers are used they must all be matching free from splits and tears and fitted closely to the seats so as not to become loose during use;
- Seats must function in accordance with the original manufacturer's specification and shall not be excessively worn.

All licensed vehicles are subject to be randomly tested by Authorised Officers or Police. If any vehicle is found to be not in compliance with these standards this will result in a Suspension Notice being served this notice will specify the defects and the action required. If the requirements of an Improvement Notice are not rectified in accordance with authorised officers requirements, within two months the vehicle licence can be revoked in accordance with Section 68 of The LG (MP) Act 1976.

### **3. Vehicle Age Policy**

On the date of application for the first licence with the Council vehicles must be less than 6 years old unless they meet the specifications in paragraph 10 as a vintage/prestige vehicle. Vehicles can continue to be relicensed up to but not including the date when they are ten years old provided that they meet the vehicle specifications. The only exceptions to this are purpose built vehicles and conversions approved by the Public Carriage Office and vehicles which have been specially manufactured or professionally adapted to carry a wheelchair. See paragraph 10. 9. Subject to approval by an Authorised Officer, and that these vehicles continue to meet the vehicle licensing specification, these vehicles can continue to be licensed until they are 12 years old.

### **4. Vehicle Tests**

Vehicles will be subject to an annual compliance test by one of the Council's approved garages. All vehicles over 8 years old will be subject to 2 compliance tests per year, 6 months apart. The vehicle test will meet the specifications set out in this Appendix and in the vehicle inspection form.

In addition each vehicle may be subject to an inspection by an Authorised Officer. This inspection will ensure that the vehicle meets the standards between compliance tests. Any vehicle found not to be of the required standard may be suspended.

Authorised Officers may carry out roadside checks at any time. If a vehicle is found to be defective in any respect a Vehicle Defect notice may be issued. If the defects are not rectified as required in the defect notice within two months the licence will be deemed to be revoked, unless there are exceptional circumstances.

Melton Borough Council may carry out further checks together with Police and VOSA or any other agency.

The Council will, from time to time, review the compliance and formal inspection forms used by inspectors.

Notwithstanding this policy the Council may request up to 3 formal inspections at an approved garage at any time during a 12 month period.

The costs of compliance tests at one of the Council's approved garages will be borne by the proprietor of the vehicle.

### **5. Trailers**

Any trailers must be authorised by the Council and display a licence plate. There will be a charge for an additional plate.

The trailer must, at all times, comply with all requirements of road traffic legislation.



The vehicle insurance must include cover for towing a trailer.

The driver's DVLA driving licence must cover the categories that allow for the towing of trailers.

Trailers will be subject to an inspection by an Authorised Officer and must be free from rust and corrosion and in general good condition.

## **6. Plates and Signs**

Vehicles shall, at all times, display the external and internal plate supplied by the Council. In addition to this Private Hire vehicles shall display the door stickers. The plate must be securely fixed to the rear of the vehicle (magnetic or adhesive fixing is not permitted). The only exception to this is where a Private Hire vehicle has been granted an exemption from displaying the plate.

There shall be displayed in the front windscreen an internal plate identifying the vehicle as either a Private Hire or Hackney Carriage.

Hackney carriages will bear a roof sign indicating whether or not the vehicle is for hire.

Private Hire vehicles must not carry a roof sign and shall not be of a design or appearance that gives the impression that it may be a Hackney Carriage.

No smoking signs must be displayed in the vehicle.

## **7. Exemption from displaying a plate**

The display of a plate on a vehicle and a driver's badge are important in terms of public safety and reassurance. They indicate to the travelling public that prior to being licensed the Driver and the Vehicle have been subject to checks to ensure the public's safety.

However, in certain circumstances, it is accepted that it is inappropriate to have a plate displayed on a Private Hire vehicle and exemptions will be granted where there is good reason. The circumstances where an exception could be given would include:

- Where there are corporate implications for the operation of the hirer's business, such as the carrying of high profile passengers
- When carrying passengers for hire or reward to/from or in connection with any wedding ceremony or funeral;
- When under contract for hire of the vehicle for a period of not less than 24 hours.
- Where the vehicle is employed in a long term contract with a company, i.e. a hotel or corporation to provide an executive vehicle to passenger clients, i.e. to and from an airport or to corporate meetings etc. similar to a limousine type service.

Exemptions will only be granted to vehicles that meet the Executive Vehicle standards. Each application will be assessed on its own merit and each vehicle will be inspected by an Authorised Officer to ensure that it meets the criteria.

Where an exemption is granted the plate must be carried in the vehicle at all times. They must also purchase magnetic door signs which should also be carried in the vehicle at all times. Both the Plate

and the Magnetic door signs MUST be used when the vehicle is used for ordinary private hire work that is not part of a contract.

When a vehicle is being used under such exemptions, the driver must wear a suit, shirt, tie and shoes and be well groomed at times when on hire.

No exemption to display a plate or signs will be given for any vehicle that is used as part of a County Council contract.

## **8. Executive Vehicle Standards**

To meet the executive vehicle standards the vehicle must meet the European commission definition of an E or F segment vehicle and should be luxurious and best in class.

The vehicle must be in pristine condition. Pristine means that there are no defects, dents or blemishes to the external bodywork or the internal trim and seating. The vehicle should be in, as near as possible, perfect condition.

It is recommended that a Licensing & Compliance Officer is contacted for advice, prior to purchase of any vehicle where an exemption is sought.

## **9. Advertising/Graphics**

No advertising matter, signs or stickers should be placed on any window of the vehicle without the approval of an Authorised Officer. Any advertising or graphics must first receive the approval of an Authorised Officer. No approval will be given to any advertising or graphics that it is considered is in bad taste or will offend.

Advertising shall be restricted to the minimum of the proprietor's company logo/name and telephone number etc on Private Hire Vehicles with more latitude being allowed on Hackney Carriages. Advertising/Graphics on Hackney Carriages of other businesses or services will be permitted if approved by an Authorised Officer as long as it conforms to the British Code of Advertising Practice.

No advertisements or any other markings shall be displayed on or in any vehicle subject to the following exceptions:

- Any signs, notices or other marking required by legislation or any condition attached to a licence;
- Advertising may not be stuck over door trims. Door trims may not be removed to accommodate advertising;
- Advertising approved by the Council;

In making a decision regarding advertising the council will take into account:

- Discrimination of any form;
- The Licensing Objectives;
- The likelihood of the advert causing offence to any section of the Community;
- The extent of the advertising.

No advertising or graphics shall interfere in any way with the signs and plates issued by the Council, or be affixed to any door or panel where a Council issued sign is affixed.

## **10. Purpose Built Vehicles (approved by the Public Carriage Office and Wheelchair Accessible Vehicles Age Policy)**

Purpose Built Vehicles and wheelchair accessible vehicles must be less than 6 years old from the date of first registration when first licensed by the Council and provided that they continue to meet the vehicle specifications may continue to be licensed up to, but not including, the date that the vehicle is 12 years old from the date of first registration.

Wheelchair accessible vehicles not fitted with a mechanical lift must, at all times, carry the correct passenger ramps stamped with their safe working load. The vehicles must, at all times, carry wheelchair tie downs compatible for the safe securing of the wheelchair and the correct restraint for the user. All electric wheelchairs must be secured with four point tie downs.

## **11. Special vehicles, vintage vehicles and limousines**

Special vehicles, vintage/prestige vehicles and limousines may be licensed and will not be subject to the age policy but must be in exceptional and pristine condition.

Exceptional/pristine condition is:

- The Bodywork should be in near perfect condition with no signs of age deterioration, dents, stone chips, scratches, rust or any other abrasions that may detract from the overall appearance of the vehicle.
- The interior trim, panels, seating, carpets and upholstery should be in excellent condition, clean and free from any damage and/or discolouration.
- The boot or luggage compartment must be in excellent condition, clean and undamaged.
- The vehicle must be in excellent mechanical condition in all respects and be safe and roadworthy with no signs of corrosion to the mechanical parts, chassis, underside or bodywork.
- The vehicle must have a service record to show that it has been properly serviced and maintained in accordance with the manufacturer's specification.

Special vehicles, vintage/prestige cars and limousines are vehicles used for specific occasions or a vehicle of a restricted nature. e.g transport to parties or prom nights. It is usually not a conventional vehicle used for standard private hire work. Examples of such vehicles are stretched limousines, vintage/prestige classic cars and other such unusual vehicles that may be requested.

These vehicles will be subject to 2 compliance tests each year at one of the Council's nominated garages or at a specified garage capable to testing such a vehicle. They can continue to be licensed until such time as they do not meet the Exceptional/Pristine Condition requirements.

## **12. Stretched Limousines**

All requirements for licensing of private hire vehicles will apply to stretched limousines. In addition the following will apply:

- Left hand drive vehicles will be permitted;

- Sideways facing seating will be permitted providing that it conforms with all relevant road traffic legislation;
- All limousines must hold a valid Individual Vehicle Approval (IVA) certificate;
- All limousines must have appropriate insurance, taking into account the specification of the vehicle;
- The vehicle must be fitted with tyres of appropriate grade and size to conform with the original manufacturer's specification;
- All limousines, no matter their age will be subject to and have 2 compliance tests 6 months apart. An appropriate garage, approved by the Council, will be used for these tests;
- All limousines subject to an application and/or licensed by the Council must have their seating capacity reduced to no more than eight passengers. No more than eight passengers must ever be carried and in this regard any child of any age will count as one passenger;
- Any advertisement for the services of a limousine must state that the vehicle is only licensed to carry eight passengers;
- Seatbelt complying with relevant legislation must be fitted to all forward and rear facing seats, there is no requirement for seatbelts to be fitted to side facing seats however, if seatbelts are fitted, they should be used;
- No alcohol will be provided unless the vehicle complies with all relevant requirements under the provisions of the Licensing Act 2003;
- Limousines will be licensed as private hire vehicles and must conform to all the appropriate requirements of this policy and any relevant legislation.

### **13. Special Vehicles - Escorted Trike Tours**

Motorcycle style 'Tricycles' can be licenced for use on Pre booked Escorted tours.

They must not be used for traditional Private hire work due to the special nature of the vehicle and the helmets and special clothing which must be worn at all times.

The Tricycle must adhere to the Standard Conditions attached to the grant of a Motor Tricycle Special Vehicle Licence see Appendix G

### **14. Doors**

All vehicles other than Special vehicles above shall have side opening doors that allow access and egress to all passenger compartments and seating.

### **15. Disability Access**

Where a vehicle is used for the carriage of disabled passengers in a wheelchair or with an infirmity, the following conditions shall apply:

- Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus;
- Wheelchair anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit;
- A suitable restraint must be available for the occupant and the wheelchair;
- Access ramps must be securely fitted prior to use and be able to support the wheelchair and occupant and helper;

- Ramps, lifts and steps should be part of the vehicle as manufactured or adapted and must be securely stored in the vehicle before it moves off;
- Passengers in wheelchairs must not travel in a sideways position;
- Any provisions to enable disabled access operate correctly in accordance with manufactures guidance;
- All equipment must be maintained in good working order and be available for use at all times;
- The driver of any vehicle should have sufficient training in loading and conveying wheelchairs passengers.

## **16. Tyres**

All tyres, including the spare wheel, must comply with the original manufacturer's specification.

Run flat tyres are acceptable on licensed vehicles.

Space saver tyres are acceptable if they comply with the original manufacturer's specification

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

An original tyre repair kit/compressor is permitted in licensed vehicles provided they comply with British standards.

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

## **17. Seat belts**

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

## **18. Passenger capacity**

All vehicles **other than Special vehicles above**, should be capable of carrying not less than three and not more than eight passengers

The seating capacity for each vehicle will be determined by the Council and stated on the vehicle licence plate applicable to the vehicle.

## **19. Fire Extinguishers**

A Fire Extinguisher must be carried in each vehicle. The extinguisher must be securely fixed in a position readily available to the driver. It must be certified in accordance with the appropriate British Standard. The date of manufacture must be clearly visible and it must be marked clearly with the vehicle registration number or licence plate number.

## **20. First Aid Kits**

First Aid Kits must be carried in all vehicles and must be suitable for treating minor injuries and should comply with advice of the Health and Safety Executive as a minimum. This must be readily available to the driver at all times.

The first aid kit must be marked clearly with either the registration number or vehicle licence plate number of the vehicle.

## **21. Luggage**

Adequate storage for passenger luggage must be available, adequately separated from the passenger compartment without obstructing any emergency exits. Luggage must be suitably secured in place. In estate cars or multi passenger vehicles luggage should not be stacked above the height of the rear seat unless the luggage is secured by suitable luggage restraints. Alternatively a guard rail should be fitted.

## **22. Modifications**

No material alteration or change in the specification, design, condition, or appearance of any licensed vehicle may be made without obtaining approval from the Council.

## **23. Licence Plate**

At all times the vehicle is licensed by the Council, even when not being used for Hackney Carriage or Private Hire purposes, the licence plate must be displayed unless an exemption has been granted by this Council.

The licence plate remains the property of the council and must be returned within 7 days when:

- The vehicle ceases to be licensed;
- Requested to do so by an Authorised Officer of the Council;
- A new plate is issued.

## **24. Signage**

Hackney Carriages shall carry a roof sign indicating whether the vehicle is 'for hire' the roof sign and any lettering must be of an appropriate size to enable it to be clearly identifiable to the public.

A Private Hire vehicle must not carry any roof sign or marking that would give the impression that it is a hackney carriage.

Two Melton Borough Council signs will be issued to each Private Hire Vehicle. These must be displayed on each side of the vehicle, in the same position and should be placed on either the rear doors or the rear wing sections.

Magnetic or permanent signs may be affixed to the vehicle. The information contained thereon must be confined to the name, address and telephone number and company logo of the operator. Advice and approval of an Authorised Officer must be sought prior to its application to the vehicle.

## **25. Meters and Fares**

An approved taximeter must be affixed to all hackney Carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure.

All meters will be calibrated and sealed by an approved agent who must provide a certificate which must be produced to the Licensing Department.

All meters must be calibrated and sealed following a change of fare or on any date specified by the Council.

The meter shall be so wired as to cancel the illuminated 'For Hire' sign when the meter is in the 'on' position.

The proprietor, or driver, of a hackney carriage shall not tamper with, or permit any person to tamper with the taximeter in any way and must ensure that the seals remain intact. If a taximeter is found to be defective, repairs must be carried out and the Council informed as soon as practicable.

The Council reserves the right to test all aspects of the taximeter at their discretion.

The taximeter shall be so positioned so that the display on the face of the meter may be clearly visible to any person being conveyed in the vehicle at all times. The dial on the taximeter shall be kept illuminated throughout any part of the hiring.

Hackney carriages may not make 'unoccupied running' charges. The hiring does not commence until the passenger enters the vehicle.

Fares charged for journeys within the borough area may never be higher than that stated in the table of fares set by the Council

Fares for journeys outside the Borough will be negotiable between hirer and driver, but where no fare is agreed in advance of such a journey, the charge is limited to that indicated on the fare meter in accordance with the current fare structure.

Private Hire vehicles are not required to be fitted with a taximeter. Where a taximeter or other such device is fitted, it must be approved by the Council.

Private Hire drivers should agree the cost of a journey with the passenger prior to the start of a journey and the fare charged should not exceed the amount agreed.

## **26. Tinted Windows**

The front windscreen must let at least 75% of light through and the front side windows must let at least 70% of light through. The remaining windows shall not have been treated so that less than 70% of light is transmitted through it, unless the following criteria can be met:

- The vehicle is operating under an exemption notice;
- Approval has been given by the Council.

The vehicle will not be engaged in any contract or provision of vehicles for the transport of school children or unaccompanied young persons (i.e. under the age of 18 years) the driver must not be the accompanying adult.

## **27. Unauthorised Use**

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

For the avoidance of doubt, case law has established that once licensed as a hackney carriage or private hire vehicle, the vehicle remains a licensed vehicle at all times until the licence expires, is surrendered, suspended or revoked. Even where the vehicle is being used for private use it must still be driven by a licensed driver and display the appropriate plate.

## **28. Incident Reporting**

Any incident causing damage materially affecting the safety, performance or appearance of the vehicle must be reported to the Council within 72 hours of the incident.

An Authorised Officer may either suspend the use of the vehicle until it is repaired and conforms to the requirements of this Policy or agree a timescale with the proprietor for repairs to the vehicle.

## **29. Address**

The address of every place the vehicle is kept when not in use must be given to the Council.

## **30. Changes and transfers**

When the holder of a vehicle licence wishes to transfer that licence to another person the new proprietor must inform the Council of the transfer. Failure to do so is an offence.

The new proprietor should provide the Council with the following documents within 28 days:

- Vehicle registration document in the new proprietors name,
- Certificate of Insurance.

The fee for this is in the scale of charges which can be found on the Council's website.

## **31. Health Act 2006**

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

Smoking is prohibited in all licensed vehicles. This includes the use of e-cigarettes, substitute cigarettes and any other product which may lead any person to believe that smoking is taking place in the vehicle.



## **DRIVERS**

### **1. General**

The Council issues a joint badge which allows drivers to drive both hackney carriages and private hire vehicles. The badge is valid for three years unless the Council decides it appropriate in the circumstances of the case that the licence should be for a lesser period.

All hackney carriage and private hire drivers shall comply in all respects with the requirements of this policy. This is in addition to the requirements of road traffic regulations and legislation relating to motor vehicles, including Council bye laws.

In order to maintain the high standards the council expects from drivers a licence will not be granted unless the Council is satisfied that the applicant is a fit and proper person.

In order to ascertain fitness and propriety the Council the requirements of this policy must be met.

### **2. Child Sexual Exploitation Awareness Training**

All drivers will be required to undertake training on the awareness and prevention of Child Sexual Exploitation. New drivers will undertake training within 12 months of licensing and existing licence holders within 12 months of the adoption of this policy.

### **3. Driving Skills testing**

In certain circumstances drivers may be required to undertake a Driving Skills test. Examples of such circumstances are where an applicant has not held a European Driving Licence for 3 years or more, where the applicant or licensed driver has 9 or more points on their DVLA driving licence, where complaints of driving standards have been received or where drivers are intending to drive Special Event vehicles. Failure to achieve a pass will result in the licence being reviewed and may be expected to result in revocation or refusal of that licence. Any application for a licence following such a revocation or refusal will not be reconsidered for 12 months and then only with a Skills Test pass being achieved.

### **4. Medicals**

A Medical Examination by the applicants own General Practitioner or by a General Practitioner who has full access to the applicants medical history is required before a licence is granted, and thereafter every three years except in the case of drivers over the age of 65 who will require a medical examination annually. A DVLA Group 2 standard of medical fitness to drive a licensed vehicle is required before a licence may be granted.

Medical certificates must be dated within 30 days prior to the licence expiry date. A certificate of more than 30 days will not be accepted.

Licence Holders must report to the Council, as soon as possible, any significant deterioration in their health that may affect their driving abilities.

Where there is any doubt as to medical fitness of either an applicant or existing driver the Council may require the applicant or driver to undergo further medical examination by a doctor appointed by the Council,. In certain circumstances the Council may require a medical examination each year. All medical examinations will be at the expense of the driver or applicant.

If there remains any doubt as to the medical fitness of any applicant or driver the Licensing Sub Committee will review the medical evidence and will make a decision in the light of all the evidence available, giving the applicant or driver opportunity to make oral representation to that Committee.

## **5. Driver Knowledge Tests**

In order to maintain the high standard that the Council expects of its drivers, a licence will not be granted unless the Council is satisfied that the applicant is a fit and proper person. In this context a driver's ability to pass these tests is seen as a fundamental skill in providing a quality service for passengers. There will be a Driver knowledge test for all new drivers.

This will consist of three parts:

- Topographical (local road network) test
- Highway Code
- Hackney Carriage and Private Hire Licensing Law and MBC Conditions.

Revision notes will be provided and there will be a separate charge for the test.

If you fail the test you will be given the opportunity to re-sit, but only three tests can be taken in a 6 month period.

The Council reserves the right to test existing drivers if it is deemed to be necessary.

## **6. Accessibility**

### 6.1.General

The Council aims to actively encourage the licensing of accessible vehicles and to encourage drivers to be aware of their responsibilities towards disabled passengers. As such, all drivers will be expected to have disability awareness training within 12 months of obtaining a hackney carriage and private hire driver's licence.

### 6.2.Wheelchairs

Drivers who are unable to accept wheelchair passengers are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence from the driver's medical consultant or specialist.

Due to the severity of the medical condition likely to warrant an exemption this Council does not expect there to be a high number of drivers who would be eligible.

In the absence of a medical exemption certificate it is a criminal offence for a driver to refuse to carry a passenger in a wheelchair, except in circumstances where it would not be reasonably practicable to

accommodate a wheelchair within the licensed vehicle. It is also a criminal offence to make any additional charges for the carriage of a passenger in a wheelchair.

### 6.3.Carriage of Assistance Dogs

Drivers who, for medical reasons, are unable to accept guide/hearing (assistance) dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence.

The main reasons for issuing a medial exemption certificate will be:

- If they have a condition such a severe asthma, that is aggravated by contact with dogs; or
- They are allergic to dogs.

In both of these cases the condition would be expected to be of such severity that there would be a medical history which would be provided by the driver's specialist or General Practitioner in support of their application for an exemption.

In the absence of a medical exemption certificate it is an offence for any licensed driver to refuse to carry an assistance dog, to refuse to allow the dog to remain with the passenger at all times or to make any additional charge for the carriage of an assistance dog.

## **7. Incident Reporting**

A proprietor or driver of a vehicle must report to the Council as soon as is reasonably practicable an in any case within 72 hours of the occurrence, any incident to a vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons using the vehicle.

## **8. Passengers**

No more than the prescribed number of passengers shall be carried.

n.b. A child is to be counted as a passenger no matter what age.

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

Exemptions for Licensed Taxis and Private Hire vehicles: If a child restraint is not available, children under 3 years must travel in the rear, but may be unrestrained. Children 3 years and over, up to 135cm tall must sit in the rear and use an adult seat belt. Children aged 12 years or more, or over 135cm tall, may travel the front, but must wear the seat belt.

Passengers must remain seated whilst the vehicle is in motion

## **9. Right to Work**

The provisions in The Immigration Act 2016 amend existing licensing regimes to prevent people without lawful immigration status and the right to work from holding an operator or a PHV or taxi driver licence.

The new provisions mean that driver and operator licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from holding such a licence.

Licensing authorities must discharge this duty by requiring the applicant to submit one of a number of prescribed documents which show that the applicant has permission to be in the UK and undertake work as an operator or a private hire or taxi driver. The check must be performed when the applicant first applies for a licence or first applies to renew or extend their licence whether for the full statutory term or a lesser period on or after 1 December 2016.

For those who have limited permission to be in the UK, the licensing authority must repeat the check at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK.

Where a person's immigration permission to be in the UK is time-limited to less than the statutory length for a driver or operator licence, the licence must be issued for a duration which does not exceed the applicant's period of permission to be in the UK and work. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as curtailment or revocation), any licence issued as a consequence of an application which was made on or after 1 December 2016, that the person holds will automatically lapse.

The provisions also add immigration offences and penalties to the list of grounds on which operator and private hire and taxi driver licences may be suspended or revoked by licensing authorities.

In circumstances where the operator or driver licence expires, is revoked or suspended on immigration grounds, it must be returned to the issuing licence authority. Failure to return the licence will be a criminal offence, punishable on conviction in a Magistrates' Court by a fine

## **10. Applications and Consideration of Applications**

The Council will consider each application on its own merits once the application is complete.

Driver's licences shall remain in force for three years, unless the Council decides it appropriate in the circumstances of the case that the licence should be for a lesser period and then can be renewed.

Drivers are reminded that the ultimate responsibility for ensuring that their licence is renewed on time remains with them.

Drivers will be subject to suspension of their licence, if it expires unless it is proved to be out of their control.

Sufficient time must be allowed for background checks. The DBS checks, in particular, can take a considerable time therefore the DBS form must be received by the Council AT LEAST 8 weeks before it expires. Failure to submit this form in time may result in a delay in the Licence being issued.

Drivers on new applications and subsequent renewals must subscribe to the DBS Update Service. This means that, with the Driver's permission, instant checks can be done and there will be no need for further DBS check every three years (see 3.6).

Revocations, refusal to grant or refusal to renew will be referred to the Licensing Sub Committee. All applicants will be given the opportunity to make oral representation to the Licensing Sub Committee. The Local Government (Miscellaneous Provisions) Act 1976 provides for appeals against any decisions made.

## **CODE OF GOOD CONDUCT AND DRESS CODE**

### **1. General**

This Code of Conduct should be read in conjunction with other statutory and policy requirements set out in this Policy. Breaches of this Code will be dealt with through the Disciplinary and Enforcement Policy.

#### **1.1 Drivers shall:**

- Pay attention to personal hygiene and dress so as to present a professional image to the public;
- Be polite, helpful and fair to passengers;
- Drive with care and use consideration for other road users and pedestrians and in particular shall not use a hand held mobile phone whilst driving;
- Obey all Traffic Regulation Orders and directions at all times;
- Not smoke in the vehicle;
- Not consume alcohol immediately before, or at any time whilst driving or whilst in charge of a Hackney Carriage or Private Hire vehicle;
- Not drive while having misused legal or illegal drugs;
- Fulfil their responsibility to ensure compliance with legislation regarding the length of working hours.

#### **PLEASE NOTE:**

ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT.

THIS COUNCIL SHALL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE HAD ANY ALCOHOL OR HAVING MISUSED ANY DRUGS WHILST IN CHARGE OF A LICENSED VEHICLE.

### **2. Responsibility**

It is the Driver's responsibility to promote a positive image of the Hackney Carriage and Private Hire trade and should be aware that each driver represents the trade and affects the public's perception of the trade as a whole. The drivers have a responsibility to the trade, public, other road users and residents.

In order to promote this positive image each driver shall;

- Behave in a civil, orderly and responsible manner at all times;
- Keep the vehicles they drive in a safe and satisfactory condition;
- Keep the vehicles they drive in a clean and suitable manner at all time;
- Attend punctually when attending a pre booked hiring;
- Offer passengers reasonable assistance with luggage;
- Behave in a professional and respectful manner.

To avoid causing nuisance to residents, a driver shall;

- Not sound the vehicle's horn illegally;
- Keep the volume of all audio equipment and two-way radios to a minimum;
- Switch off the engine if required to wait;
- Take whatever action necessary to avoid disturbance to neighbours and/or residents.

At hackney ranks, in addition to the above a driver shall:

- Rank in an orderly manner and proceed along the rank in order and promptly;
- Remain in the vehicle.

At private hire offices a licence holder shall:

- Not undertake servicing or repairs to vehicles;
- Not allow their radio or other music etc to cause disturbance to residents of the neighbourhood;
- Take whatever action is necessary to avoid disturbance to the neighbourhood which might arise from the conduct of their business.

### **3. Dress Code for Licensed Drivers**

Melton Borough Council is committed to encouraging the professional image of the Hackney Carriage and Private Hire trade, and considers that drivers of licensed vehicles should conform to a minimum standard of dress.

These standards are not imposed by way of conditions on any licence but it will be expected that this standard will be maintained by drivers at all times:

- All drivers are requested to dress smartly and maintain a clean and tidy appearance;
- All clothing and footwear should be clean and not damaged;
- No logos or graphics which might offend;
- Appropriate footwear must be worn at all times, for driving and the operation of any ancillary equipment.

### **4. Dress Code for Drivers of Executive Vehicles**

Drivers of executive type private hire vehicles that have been exempted from displaying plates must dress appropriately, i.e. wear a suit, shirt and tie, be well groomed and maintain an extremely clean and tidy appearance.

## **Taxi and PHV Licensing Criminal Convictions Policy**

### **1. Introduction**

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That the person does not pose a threat to the public
  - That the public are safeguarded from dishonest person
  - The safeguarding of children and young persons
- 1.3 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' and operators' licences
  - Existing licensed drivers and operators whose licences are being reviewed
  - Licensing officers
  - Members of the licensing committee/ panel (or other relevant decision making body)
  - Magistrates hearing appeals against local authority decisions
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing committee/panel (or other relevant decision-making body) who will also utilise these guidelines. Whilst officers and the committee/panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

### **2. General policy**

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 To assist in determining whether an applicant is a 'fit and proper' person to hold a licence the council will undertake any checks it deems necessary and will take every step to ensure that licences are not issued to, or used by, unsuitable people. The council and the Licensing Sub-Committee will take the following into consideration:
- Criminality – details provided from the Disclosure and Barring Service Certificate, or intelligence from the Police or any other legitimate source



- Period of holding a DVLA driver's licence – an applicant who has not held a valid UK driver licence for the appropriate class of vehicle for a period of at least one year will not be eligible to apply for a licence
- Number of endorsed driving licence penalty points – as detailed in the DVLA licence check
- Right to work – evidence that the applicant is eligible to work in the UK must be provided within the application. If the leave to work is less than the drivers licence (3 years) the licence will only be issued for the same period, however the fee remains the same.
- Medical fitness – a completed medical must be provided with the application by a Registered Medical Practitioner who has full access to the applicant's medical records and history. If we are not satisfied with the medical information submitted, further assessments may be required at the cost of the applicant.
- The conduct of the applicant in making the application - the applicants integrity during the application process will be considered For example, where an applicant has not disclosed all criminal convictions on the application form as requested, but the DBS Certificate details convictions, or the applicant makes a false declaration or withholds any other relevant information that would reasonably be expected to be disclosed, this will be considered to be dishonest and the application may not be looked on favourably
- The previous licensing history of existing / former licence holders –information may be sought from any neighbouring authorities, that the applicant may have previously worked in
- Consideration of the question - "Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?"

2.3 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- a. Remain free of conviction for an appropriate period; and
- b. Show adequate evidence that her or she is a fit and proper person to hold a Licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.4 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

### 3. Appeals

3.1 Any applicant refused a driver or operator's licence on the grounds that the Licensing authority is not satisfied he is a fit and proper person to hold such a Licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].

### 4. Powers

- 4.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 allows the licensing authority to suspend, revoke or refuse to renew a drivers licence if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.2 Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 allows the licensing authority to suspend, revoke or refuse to renew an operators licence: if the applicant/licence holder has been convicted of any offence under, or none compliance with Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any conduct on the part of the operator which appears to render him unfit to hold an operators licence; or any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or any other reasonable cause.
- 4.3 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.4 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence, in advance, to prove that any action required to be undertaken as part of a court agreed reduction in the period of disqualification has been successfully completed.

## **5. Consideration of disclosed criminal history**

- 5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:
- How relevant the offence(s) are to the licence being applied for
  - How serious the offence(s) were
  - When the offence(s) were committed
  - The date of conviction
  - Circumstances of the individual concerned
  - Sentence imposed by the court
  - The applicant's age at the time of conviction
  - Whether they form part of a pattern of offending
  - Any other character check considered reasonable (e.g. personal references)
  - Any other factors that might be relevant

- 5.2 Existing holders of drivers' licences are required to notify the licensing authority in writing within 21 days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).
- 5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing section in confidence for advice.
- 5.4 The licensing authority conducts enhanced disclosures from the Criminal Records Bureau (CRB) of any applicant for a driver licence. The licensing authority follows the CRB's Code of Practice on the fair use of disclosure information. A copy is available on request.
- 5.5 Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense. The licensing authority abides by the CRB's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.6 More information about the CRB can be found on their website at [www.disclosure.gov.uk](http://www.disclosure.gov.uk).
- 5.7 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.
- 5.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

## **6. Serious offences involving violence**

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 In other cases anyone of a violent disposition will normally be refused to be Licensed until a period free of conviction in accordance with the following paragraphs. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
  - Manslaughter

- Manslaughter or culpable homicide while driving
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the Conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

6.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

- 6.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.
- 6.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

## **7. Possession of a weapon**

- 7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.
- 7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

## **8. Sex and indecency offences**

- 8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.
- 8.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:
- Rape
  - Assault by penetration
  - Offences involving children or vulnerable adults
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Sexual assault
  - Indecent assault
  - Possession of indecent photographs, child pornography etc.
  - Exploitation of prostitution
  - Trafficking for sexual exploitation
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 8.4 (c) Before a licence is granted, an applicant should be free of conviction for at

least 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

8.5 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

8.6 A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

## **9. Dishonesty**

9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

## **10. Drugs**

10.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

- 10.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.
- 10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 10.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

## **11. Driving offences involving the loss of life**

- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:
- Causing death by dangerous driving
  - Causing death by careless driving whilst under the influence of drink or drugs
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 11.2 Before a licence is granted, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:
- Causing death by careless driving
  - Causing death by driving: unlicensed, disqualified or uninsured drivers

## **12. Drink driving/driving under the influence of drugs**

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be

provided before the application can be allowed to proceed.

### **13. Outstanding charges or summonses**

- 13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be made at committee.
- 13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.
- 13.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

### **14. Non-conviction information**

- 14.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.
- 14.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

### **15. Cautions**

- 15.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the Offence.

### **16. Licensing offences**

- 16.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since.

### **17. Insurance offences**

- 17.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.



17.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his Operators' licence revoked immediately and prevented from holding a licence for three years.

## **18. Overseas residents**

- 18.1 If a private hire driver or operator applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period.
- 18.2 Due to the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS certificate will be required, for in cases where criminal record checks are not available from the countries in question, a Certificate of Good Conduct from the applicants embassy or consulate, with certified written English translation, will need to be provided.

## **19. Licences issued by other licensing authorities**

- 19.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

## **20. Summary**

- 20.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
- 20.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 20.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

## **OPERATORS**

### **1. General**

The Operator shall at all times, provide an efficient and reliable service to members of the public at all reasonable times and ensure that any office staff act in a civil and orderly manner at all times.

They should ensure that every vehicle arrives punctually and the appointed place.

### **2. Bookings**

All bookings for Private Hire must be made in advance of the hiring at the Operators business premises.

### **3. Operator's Address**

The operator's licence will specify an address from which they must operate and this will be within Melton Borough Council area.

An operating centre is where bookings are taken and records are kept.

If an operator wishes to change that address they should inform the Council immediately, a new application may be required.

### **4. Records**

Operators must keep records pursuant to the Local Government (Miscellaneous Provisions) Act 1976 with regard to bookings, vehicles and drivers as follows:

#### S. 56 (2) Bookings

- The date and time of each hiring undertaken, by the hirer or by undertaking it as the request of another operator;
- The name and address of the hirer;
- Which licensed vehicle was used;
- The identity of the driver;
- The start and finish locations of the journey;
- The number of passengers.

#### S.56 (3) Vehicles

- Type, make model colour and engine size of vehicles;
- The year when the vehicle was first licensed for private hire;
- Vehicle registration number
- The number of seats for passengers;
- Owner;
- Insurance details;

- Whether a meter is fitted;
- Private hire vehicle plate numbers.

#### S.56 (4) Drivers

- Details of new drivers;
- Dates when a driver starts or finishes;
- Any change of address of any driver;
- Expiry dates of licences.

All records shall be kept for a period of twelve months and shall be available for inspection by an Authorised Officer from the Council.

### **5. Premises**

The premises from which an operator conducts his business must have planning permission for office and/or commercial use and inform the non domestic rates section of the Council.

The operator must comply in all respects with the current Town Planning legislation.

### **6. Licences**

All Operator Licences will be issued for 5 years unless the Council decides it appropriate in the circumstances of the case that the licence should be for a lesser period.

**HACKNEY CARRIAGE AND PRIVATE HIRE DISCIPLINARY AND ENFORCEMENT POLICY****1. Foreword**

This document sets out what businesses and others being regulated can expect from the Enforcement of Melton Borough Council's Hackney Carriage and Private Hire Policy. It commits the Council to good enforcement policies and procedures. It lays down the policy of the Council formerly based on the principles of good enforcement contained in the Enforcement Concordat, produced by Central Government and the new Statutory Code of Practice for Regulators (Regulators Compliance Code) produced by the Department for Business Enterprise & Regulatory Reform and supplemented by additional statements of enforcement policy of other service units within the Council.

The Statutory Code of Practice for Regulators is a central part of the Government's better regulation agenda. Its aim is to embed a risk-based, proportionate and targeted approach to regulatory inspection and enforcement.

Effective and well-targeted regulation is essential in promoting fairness and protection from harm. However, in achieving these objectives, regulation and its enforcement should be proportionate and flexible enough to allow or even encourage economic progress.

The purpose of the Code is to promote efficient and effective regulatory inspection and enforcement, to improve required outcomes without imposing unnecessary burdens on regulated persons and businesses.

The Licensing Team of Melton Borough Council will make every effort to comply with the Code. However, in certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by other material factors. Any decision that is taken to depart from the Code in a material way will be properly reasoned based on relevant evidence.

In having regard to the Code we will, in particular, adopt a positive and proactive approach towards ensuring compliance by:

- helping and encouraging regulated persons to understand and meet regulatory requirements more easily; and
- responding proportionately to regulatory breaches.

To that end, this document has been produced, representing Melton Borough Council policy. As such it is to be adhered to by all Licensing Staff and the Licensing Committee when discharging their regulatory licensing functions.

Following approval by Council, this document will be placed on the Council's website.

**2. Introduction**

It is the function of Licensing to regulate and ensure compliance with the law across broad subject areas, including:

- Hackney Carriage and Private Hire Vehicles and Drivers

- Private Hire Operators

To enable these statutory functions to be carried out, Officers are appointed and are duly authorised to act under specified legislation. The statutory basis for hackney carriage and private hire enforcement is contained within the following legislation and documents:-

- Town and Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Equalities Act 2010
- Road Traffic Acts
- Human Rights Act 1998
- Health Act 2006
- The Hackney Carriage and Private Hire Licensing Policy Licence Conditions
- Immigration Act 2016
- Melton Borough Council Byelaws (appendix E)
- Melton Borough Council's Constitution

In some cases, an individual's authority may be limited in scope and in others, proof of competence, in terms of relevant qualifications and/or experience, may be a pre-requisite to authorisation.

This document describes the principles upon which our enforcement approach is based, rather than the detailed internal procedures through which our regulatory functions are delivered.

In pursuance of its objective to encourage responsible Hackney Carriage and Private Hire businesses, Melton Borough Council will operate a firm but fair enforcement and disciplinary regime, with a view to balancing the promotion of public safety with the need to permit operators and individuals to safeguard their livelihood without undue interference.

It is recognised that most people want to comply with the law, accordingly; consideration will be given to alternative action to prosecution to ensure that those regulated comply with the law. In general action and enforcement will be carried out by the Council's Enforcement Officers and/or Licensing Officer. The Council will only intervene in cases where it is deemed to be necessary and proportionate to do so. The Council seeks to promote the following objectives:

- The protection of public safety;
- The establishment of a professional and respected hackney carriage and private hire trade;
- The safety and health of drivers and the public;
- Access to an efficient and effective public transport service;
- The protection of the environment;
- To encourage high standards of service and competence in the hackney carriage and private hire trade;
- To encourage a 'mixed' fleet of vehicles to meet the various needs of the public.

### **3. Overall Aim**

The aim of the Council is to undertake its regulatory and enforcement role in a fair, open and consistent manner. In doing this it will act in accordance with the guidance and standards set out in this policy. In particular, the Council will:-

- Consult with parties subject to regulation and enforcement by the Council about the standards it sets in undertaking this role;
- Deal fairly and proportionately with licensees, applicants and service users;
- Work with individuals and businesses to assist them in complying with their legal duties and obligations;
- Ensure its staff are appropriately trained and apply the Policy and standards professionally and consistently;
- Make information about the Policy and the standards widely available to the public and businesses within the Borough;
- Consider and take enforcement action in a fair, equitable and consistent manner;
- Explain the reason for any decisions or actions taken in respect of this policy;
- Review the policy from time to time in consultation with parties subject to its application; and
- Comply with the various requirements and standards of external legislation, guidance, corporate policy and good practice.

The Council has a statutory duty to ensure that licensed drivers and operators are licensed correctly and carry out their trade in accordance with relevant legislation, byelaws, statutory notices and conditions attached to licences. The means by which this is achieved is through enforcement.

Any departure from this policy must be exceptional, capable of justification and be fully considered by relevant authorised officers before a decision is taken, unless officers feel that there is a significant risk to the public in delaying the decision.

#### **4. Principles of Enforcement**

As a guiding principle, all of the enforcement activities will be in accordance with the five “Principles of Good Regulation”. Identified by the Better Regulation Executive, the Principles are that Regulation should be:

- Transparent;
- Accountable;
- Proportionate;
- Consistent;
- Targeted – only at cases where action is needed.

Wherever possible, officers will seek to find solutions that are arrived at by agreement and co-operation and will keep in mind the idea that prevention is better than cure.

Officers are required to regulate activities across a wide range of businesses and with every type of individual in their professional dealings. Full regard will be paid to the different abilities that are encountered and to the importance of education and help which they are able to give to achieve compliance.

However, the aim behind much of the officer’s efforts is the protection of persons at work, the general public and the environment from harm caused by failure to comply with the safeguards provided for in

law. This being the case, there will be circumstances in which enforcement is unavoidable and the Council does not shrink from using its full legal powers, including prosecution, where it is deemed necessary to do so.

There are two distinct aspects to enforcement, which may be taken to mean either of the following:

- a) Enforcement for Compliance. This ensures that the Council has programmes in place for monitoring compliance by businesses and individuals, considering the various pieces of legislation affecting each. Such programmes are pro-active in nature and will include, for example, routine inspections of food premises, workplaces, licensed premises and authorised processes.

Because of the diversity of requirements under the different legislation and Guidance, no attempt is made in this document to be prescriptive about the ways in which pro-active programmes are organised and monitored.

- b) Enforcement for Non Compliance. In this aspect of enforcement, the options available for taking action against businesses or individuals for ignoring or otherwise failing to comply with their legal obligations are outlined in paragraph 3.6, below,

The need for enforcement for non-compliance may result either from the pro-active programmes outlined in a), above, or alternatively from a reactive response, for example, to a complaint or report of non-compliance.

Options for enforcement action include the following:

- Prosecution
- Simple Cautions
- The service of Notices, including Suspension Notices
- Revocation, Suspension or Refusal to Renew (Permits or Licences)
- Written warnings (sometimes referred to as informal Notices)
- Penalty Points
- Advice
- A combination of the above

Enforcement action may be taken as a result of an incident, a complaint or an inspection. The options are discussed in paragraph 5.

This Policy document does not intend to provide operational or procedural detail, but some of the more important points that are covered include:

- a) A decision to prosecute will be taken by the Head of Regulatory Services or the Environmental Protection and Safety Manager in consultation with the Investigating Officer and Legal Services. During the decision making process, full consideration will be given to lesser enforcement alternatives.
- b) Any proposed prosecution must satisfy two specific tests, these being:
  - i) Evidential Test: no case will be taken unless there is the realistic likelihood of conviction and,

ii) Public Interest Test, by which the circumstances leading to consideration of prosecution are deemed to affect the public interest.

A number of factors, listed at Appendix (i), will determine whether or not a particular prosecution is in the public interest and a balance in favour or against will be made, between those factors that are present.

- c) Following a successful prosecution, the Council will seek to recover the costs involved in the investigation and subsequent Court proceedings.
- d) A Simple Caution will be offered only if the evidence of the case is sufficient for prosecution to have been considered as a viable option.

A large amount of legislation bears upon the conduct of investigations and of legal proceedings and these include the Police and Criminal Evidence Act 1984, the Criminal Procedures Investigations Act 1996, the Regulation of Investigatory Powers Act 2000, and many more. All of the provisions of the above will be complied with at all times when they are relevant to a particular task.

Whenever possible, officers will work in partnership with other agencies to achieve common goals on matters of mutual concern. These Agencies may include, for example, the Vehicle and Operator Service Agency (VOSA), Leicestershire Police, Trading Standards and Leicestershire County Council.

## **5. General Considerations**

When enforcement action is necessary it will be undertaken without fear or favour and without consideration of the race, ethnic background, age, faith, social status, disability, colour, gender or sexual orientation of any persons involved.

If any person exerts undue or improper pressure in an attempt to influence a decision concerning enforcement, it will be reported through line management without delay.

As a general rule and where there may be options, the level of enforcement contemplated will be the minimum at which a satisfactory solution is considered to be achievable.

## **6. Scope of Enforcement Procedures**

This policy applies to all types of licensing enforcement operations and includes, not exhaustively:

- Undertaking routine inspections and checks of licensees, licensed vehicles and premises to determine compliance with licence conditions;
- Undertaking pro-active inspections and checks of licensees, licensed vehicles and premises, sometimes in co-operation with other agencies;
- Providing advice about the licensing and licensing enforcement organisation and systems;
- Responding to requests for service and allegations of breaches of legislation, policy and conditions;
- Taking enforcement action where it is deemed necessary.

Vehicles, Drivers and Operators will be subject to formal and informal enforcement checks, which will be carried out regularly. The Council will seek to minimise the need to carry out enforcement activity by providing advice and guidance in all aspects of the trade. Officers will usually identify themselves, and deal with all enquiries efficiently and courteously. The Council will occasionally work with other agencies, including the Police and VOSA, to ensure compliance with legal requirements.



The Council will minimise the cost of compliance for the trade by ensuring that any action required is necessary and proportionate to the aims of public safety, the protection of the rights of others, compliance with the conditions of the licence or the prevention or detection of crime. As far as the law allows, the Council will take into account the circumstances of the case and attitude of the individual when considering action.

The Council will carry out its duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases, we will have arrangements in place to ensure consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the National Association Licensing and Enforcement Officers.

### 6.1 Prevention

The first step will always be to help prevent contravention of the law and conditions by raising awareness and promoting good practice.

### 6.2 Informal Action

Informal action to secure compliance with legislation includes offering advice, verbal and written warnings, issuing penalty points, requests for action and the use of letters. Such informal enforcement action may be appropriate in any of the following circumstances:-

- the act or omission is not serious enough to warrant more formal action;
- it can be reasonably expected that informal action will achieve compliance, perhaps by taking into account the individual driver or operator's past history;
- confidence in the operator's management is high;
- the consequences of non-compliance will not pose a significant risk to the safety of the public.

Even where some of the above criteria are not met there may be circumstances in which informal action will be more effective than a formal approach.

Where it is discovered that an operator or a driver has committed a breach, they can be issued with penalty points in line with the Melton Borough Council Hackney Carriage and Private Hire Penalty Points Scheme. Points given under the scheme will remain on a driver's record for 12 months from the date of issue.

Where an operator or driver has been given twelve or more points in a 12 month period, they will be required to appear before the Council's Licensing Committee.

Where a driver/operator is given a written warning on three or more occasions within a 12 month period that license holder can be required to appear before the Council's Licensing Committee.

### 6.3 Appearance before the relevant Committee of the Council

An authorised officer may report a breach of any relevant legislation, bye-law, condition/s attached to a licence or a contravention of the Licensing Policy to the Licensing Committee or Licensing Sub-Committee, where the offending individual or company may be requested to appear before the Committee to answer the allegations of breaches.

The Committee may decide to take one or more of the following actions:-

- no action;
- issue a verbal or written warning;
- require the production of driving licenses or other specified documentation at the Council's Office;
- suspend a licence;
- revoke a licence;
- recommend prosecution action;
- other appropriate action as deemed necessary.

In circumstances where it is deemed necessary that a driver's licence should be suspended immediately for reasons of public safety, a notice under the provisions of s.61(2)(B) can be served. A driver receiving such notice will have to cease licensed activities immediately upon the receipt of the notice.

#### 6.4 Section 68 Notices

An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle or the taximeter affixed to such vehicle to be examined at one of the Council's appointed garages. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter.

An authorised officer may, alternatively/in addition to requiring the vehicle to be tested, suspend/delay the suspension of a vehicle licence until such time as they are satisfied with the condition of the hackney carriage or private hire vehicle. This action will only be taken when they have reasonable grounds to suspect that the condition of the vehicle does not meet the conditions of the Licensing Policy.

The notice will remain in place until such time as an authorised officer is satisfied that the grounds for delayed suspension/suspension have been satisfactorily resolved and written confirmation of the lifting of the suspension notice has been given. Until such time as written confirmation of the lifting of the delayed suspension/suspension notice has been received, the notice will remain active.

If an Authorised Officer is not satisfied that the appropriate action has been taken to allow the delayed suspension/suspension notice to be withdrawn within the period that has been stated in writing from the date of issue, the vehicle licence shall be deemed to be revoked, unless the authorised officer is satisfied that there are extenuating circumstances why the notice has not been fully complied with and a further date for compliance has been set.

#### 6.5 Appeals

Appeals against decisions of the Licensing Committee or an authorised officer may be made to the Magistrates' Court. Any notifications of enforcement actions will include written information on how to appeal. An appeal to the Magistrate's Court will stay the Council's action pending the determination of the appeal.

In certain circumstances there is a right of appeal to the councils 'Appeals Committee'.

Where the Council suspends or revokes a driver's licence under the provisions of s61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 where it is deemed that such action is necessary in the interests of public safety, the revocation or suspension will take place immediately on service of the notice on the driver and continue to be of effect regardless of the fact that the driver may have made an appeal against the decision to the Magistrates' Court.

A driver can also appeal against a refusal to renew his driver licence, but as his previous licence would have already expired he cannot continue to drive as he would no longer hold a current licence.

## 6.6 Prosecution

The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not followed and/or the public is put at serious risk. Such circumstances are, however, in a minority. It is important that the criteria on which a decision to prosecute is made provide common standards which ensure a consistent approach.

When a decision is being taken on whether to prosecute, the factors to be considered may include:-

- the seriousness of the alleged offence;
- the risk of harm to the public;
- relevant affected parties;
- failure to comply with a statutory notice served for a significant breach of legislation;
- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers or other road users;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent;
- where a particular contravention has caused serious public alarm;
- disregard of safety for financial reward;
- the previous history of the party concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings;
- the ability of any important witnesses and their willingness to cooperate;
- the willingness of the party to prevent a recurrence of the problem;
- the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent. (As indicated above, advice on the public interest is contained in the Code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution)
- whether other action, such as issuing a simple caution would be more appropriate or effective.

When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered to enable a consistent, fair and objective decision to be made.

Before referring a matter to the Council's Solicitor for possible prosecution, the Head of Regulatory Services as well as the Environmental Protection and Safety Manager and the investigating officer

must all be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. There must be a realistic prospect of conviction; a bare prima facie case will not be sufficient to progress through to prosecution. With insufficient evidence to prosecute, the issue of a simple caution will not be an alternative.

In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria.

### 6.7 Simple Cautions

A simple caution may be used as an alternative to a prosecution in certain circumstances. The purposes of the simple caution are:-

- to deal quickly and simply with less serious offences;
- to divert less serious offences away from the Courts;
- to reduce the chances of repeat offences
- to safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered:-
- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of a conviction;
- the suspected offender must admit the offence;
- the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.

If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria will not be satisfied for the use of a simple caution. A simple caution should also not be used where the suspected offender does not make a clear and reliable admission of the offence. (It should be noted that there is no legal obligation for any person to accept the offer of a simple caution and no pressure should be applied to the person to accept a caution).

Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. Whilst this will usually mean prosecution, this is not necessarily inevitable; for example, it may be considered that a written warning would be appropriate.

### 6.8 Test Purchasing

It is recognised that the majority of licence holders are professional, approachable and a credit to their trade. The Council does, however, receive complaints from members of the public and the trade itself about a small minority of licence holders who do not always act in a professional manner. The Council also responds to allegations of unlicensed vehicles and drivers operating within Melton Borough.

In such matters it is likely to be deemed appropriate that the Borough Council, in partnership with other agencies, seek to carry out test purchasing in order to gather the necessary evidence to prove a breach.

If sufficient evidence is gathered to consider further action, it would be likely that such action would be considered by the Licensing Committee and/or by prosecution through the Magistrate's Court as detailed above.

## **7. Complaints**

The public are able to make complaints to the Council about the conduct and/or service received from licensees and the Council will adhere to the following procedure:-

- Ascertain the facts regarding the complaint and decide if actionable;
- Register the complaint and refer to an investigating officer;
- Contact the complainant within 5 working days;
- Investigate the complaint;
- Make a decision; and
- Inform all parties of that decision.

Licensees who are the subject of a written complaint will be informed of the nature of the complaint, including date, time and location of the incident and, if necessary, given sufficient notice to attend any interview.

The outcome of the investigation will be implemented in accordance with this Enforcement Policy.

Disputes between licensees should be resolved between themselves and not through this procedure. If there is evidence relating to alleged serious criminal offence, such as threats of violence, assault etc., this will be referred to the Local Police.

## **8. Complaints about the service**

Any dissatisfaction with the actions of an Officer of the Council will be dealt with under the Council's Complaints Procedure, copies of which are available from offices of the Council, by accessing the Council's website ([www.melton.gov.uk](http://www.melton.gov.uk)) or by telephoning the Council on 01664 502502.

## **9. Access to the Policy**

This Enforcement Policy is available on the Council's websites (shown above) and in hard copy on request through the above contact numbers or by writing to the Licensing team.

## **HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SCHEME**

### **1. Introduction**

Hackney Carriage and Private Hire Operators, Drivers and Vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1846, the council's byelaws and the policies and conditions of the Local Licensing Authority.

Currently when officers have sufficient evidence to discipline Private Hire and Hackney Carriage drivers for breaches of licensing legislation and conditions, these matters are usually dealt with by either advice (verbal or written), a simple caution, proceedings before the Courts or by referring a matter to the Licensing Committee.

It is considered that this system is not wholly effective in dealing with repeat offenders for minor vehicle defects and breaches of licence conditions that do not warrant heavy sanctions because these breaches are not formally cumulatively considered.

It is proposed that there is alternative system which has been used successfully by other authorities, a penalty points system, which if adopted could be more effective against those licensed parties who ignore their responsibilities in relation to the conditions attached to their licences.

The Melton Borough Council penalty point scheme provides that should it be alleged that operators or drivers of licensed vehicles have committed an offence, or breached the Council's Hackney Carriage and Private Hire Policy and/or conditions of their licence, the circumstances must be investigated. During the investigation, amongst other actions, statements may be taken, records requested and analysed, and questions asked either informally or formally under caution. Once this procedure has been completed, letters are sent out detailing the outcome, and a permanent record kept on the persons file. The outcome of investigations may result in;

- no further action being taken,
- Melton Borough Council taxi licensing penalty points being given,
- a formal warning being issued,
- a referral to the Melton Borough Council Licensing Sub Committee, and/or
- prosecution, or caution

Where a licence holder, either driver or operator, accumulates twelve penalty points or more, in any twelve month period, the matter will be referred to the Melton Borough Council Licensing Sub Committee for the Sub Committee to decide whether the driver is a fit and proper person. In the case of an operator the Sub Committee will decide if he is unfit to hold a licence or whether they have any other reasonable cause to suspend, revoke, or refuse to renew the licence. The Licensing Sub Committee may then decide to suspend or revoke the licence, issue a warning to the licence holder, refuse to renew, give advice, or do nothing, depending on the circumstances.

The aim of the penalty point scheme is to work alongside other enforcement options. It provides a formalised stepped enforcement plan that can be easily followed and monitored. The purpose of the scheme is to record misdemeanours which would not normally be recorded or processed and to act as a record of driver's and operator's behaviour and conduct to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions. It is designed as an evidence gathering tool rather than a punishment scheme.

The primary objective of the 'penalty points' scheme is to increase the levels of compliance and help improve the standards, which will improve the safety and protection of the travelling public.

Penalty points remain for twelve months. The period is on a rolling twelve month basis, any points given over twelve months from the current date will be considered as spent and therefore excluded from the running total recorded against any individual licence holder.

The penalty point scheme will not stop or hinder the investigation of any serious issue or allegation being immediately reported to the Licensing Committee or being considered for prosecution, or caution.

## **2. Issue of Penalty Points**

For the Authority to agree and carry out this scheme it would fall within s.61 of the Local Government (Miscellaneous Provisions) Act 1976. This states that:

### S.61

(1) Notwithstanding anything in the Act of 1847 or in this part of the Act, a District Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire on any of the following grounds:

a) That he has since the grant of the licence –

(i) Been convicted of an offence involving dishonesty, indecency or violence; or

(ii) Been convicted of an offence under, or has failed to comply with, the provisions of the Act of 1847 or of this part of the Act; or

b) Any other reasonable cause

Under s.61(1)(b) above, Melton Borough Council, may suspend, revoke, or refuse to renew a driver's taxi licence if they have a reasonable cause to believe so, a reason of which could be if they do not believe a licence holder is a fit and proper person. Receiving 12 penalty points, or more, within a 12 month period may indicate that a license holder is not a fit and proper person.

The licensing of a private hire operator is similarly controlled under s.62 of the Local Government (Miscellaneous Provisions) Act 1976 which states:

### S.62

(1) Notwithstanding anything in this Part of this Act a district council may suspend or revoke or refuse to renew an operator's licence on any of the following grounds:

a) any offence under, or non-compliance with, the provisions of this Part of the Act;

b) any conduct on the on the part of the operator which appears to the District Council to render him unfit to hold an operator's licence:

- c) Any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
- d) Any other reasonable cause.

An operator who accumulates twelve penalty points, or more, within 12 months may indicate that he is unfit under s.62(1)(b) above or may be a reasonable cause under S.62(1)(d) above.

Within the list of offences and breaches of conditions is shown the maximum amount of points that can be issued for each individual offence. Points can be issued in increments of 3 dependent on the nature of the offence. Any issue of penalty points under this scheme has to be justified and evidenced.

Where a licence holder, either driver or operator, accumulates 12 penalty points or more in any 12 month period the matter will be referred to the Melton Borough Council Licensing Sub Committee for consideration of whether that person is fit and proper to be licensed. In the case of an operator the Sub Committee will determine whether he is fit to hold a licence or whether they have any other reasonable cause to suspend, revoke, or refuse to renew the licence.

The Council's Licensing Sub Committee can resolve to suspend or revoke a licence, issue a warning to the licence holder, refuse to renew, give advice, or do nothing, depending on the circumstances.

Melton Borough Council penalty points will remain current for 12 months from the date the penalty points were issued. Points issued will be confirmed in writing within 10 working days from the discovery of the contravention.

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

### **3. Appeal Procedure**

A driver or operator who has been given penalty points under the Melton Borough Council Penalty Points Scheme may appeal within 21 days of the issue of the points to an independent head of service; Melton Borough Council's Environmental Protection and Safety Manager, who will have the discretion to remove, reduce, or increase the number of points awarded.

A decision will be reached within 21 days of the submission of the appeal, the appellant being informed by letter. The appeal is a paper procedure only and will be decided on the known facts, the grounds, and the facts of the appeal submitted. If a driver or operator is issued 12 points, or has accumulated 12 points within 12 months, an appeal can still be submitted. If the appeal is successful and the points are removed or reduced then they will not be referred to the Licensing Sub Committee. Conversely if an appeal is submitted for an amount of points lower than 12, and the result of the appeal is the raising of the number of points to 12, or more, the driver or operator will be referred to the Licensing Sub Committee.

There is no further appeal to this procedure.

If, under this scheme, a driver or operator is referred to the Licensing Sub Committee, the Sub Committee will decide if the driver is a fit and proper person, or that if an operator, **is?** unfit; or whether there is a reasonable cause to suspend, revoke, or refuse to renew the relevant licence. The Sub Committee may also decide to issue a warning letter, give advice, or do nothing. Periods of



suspension of a licence by the Sub Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days. Whatever the decision of the Licensing Sub Committee, the points still remain in force for 12 months from the date they were issued, if this is 12 or more, then if more are issued it will result in another referral to the Licensing Sub Committee.

This scheme does not interfere with a licence holders right to appeal any subsequent suspension, revocation, or refusal to renew, at the magistrates court.

If points are issued to a licence holder for a matter which is also a criminal offence, e.g. bald tyres, or no badge, those person(s) will not then be the subject to a separate prosecution by the Council.

Melton Borough Council's fleet of licensed vehicles and drivers are figureheads within Melton and surrounding areas and standards should be high in order to ensure public safety and represent Melton in a positive light. We believe that this scheme will give the necessary tools in order to ensure compliance and seek to raise the standard of our licensed vehicles and licensed drivers.

### **Applicable Case Law**

A judicial review, *R (app Singh) v Cardiff City Council* (2012) EWHC 1852 (admin), challenged the use of a similar penalty points scheme in relation to a taxi driver. This was based on a number of arguments but the principal ones were that there was no lawful power to run such a scheme, that when the maximum points were reached there was automatic revocation and therefore no application of discretion, there was a fetter on the discretion of the Authority, the scheme was irrational and the process conflicted with Article 6 of the European Court of Human Rights. The Melton Borough Council Penalty Points Scheme is different to the Cardiff City Council case referred to here, as there is no 'fetter on the discretion'. The Penalty Points Scheme is merely a method, amongst others, that may indicate that a driver is not a fit and proper person, or that an operator is unfit. The decision on any action, if any, to suspend, revoke, or refuse to renew a hackney licence or operator's licence is the decision of the Licensing Sub Committee of elected councillors.

The judge found that it was lawful to have a penalty point's scheme as a means of dealing with misdemeanours. Mr Justice Singh said (at para 65)

"In my view, there is nothing wrong in principle with the defendant authority such as the present, adopting the policy, which seeks, both in fairness to the driver potentially affected and also to protect the public interest, to have, as it were, a staged process by which the cumulative effect of incidents of misconduct may well lead ultimately to the conclusion that in the judgement of the local authority, a person is not a proper person to continue to enjoy the relevant licence."

However, there was a problem with the way in which Cardiff City implemented the policy. Its approach was that when a driver reached 10 points under their scheme the licence would be revoked and it appeared that on occasions, reduced numbers of points were awarded to a driver to avoid revocation of the licence. It was these elements which led to the challenges of a lack of application of discretion and fetter of the discretion. As explained in 4.1 the Melton Borough Council Penalty Points Scheme has no 'fetter on the discretion' as there is no automatic revocation of a licence when the upper limit of 12 points is reached. This merely indicates that the driver may not be a fit and proper person or the operator is unfit, and it is to the Licensing Sub Committee to make any decisions on any action to be taken, if any. The judge agreed with the claimants but in doing so explained how the process of deciding on whether action should be taken against a drivers licence should be undertaken.

In relation to action being taken under S.61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 'any other reasonable cause', the question is whether a person remains a fit and proper person to continue to hold a taxi drivers licence. The judge said that this was not purely discretion; it required a judgement to be performed on whether the statutory question has been answered in favour of or against the relevant driver. (para 70)

If the answer to that judgement is against the driver (i.e. he is not fit and proper) there still exists discretion as to what action to take against the licensee.

The judge also questioned:

"How many penalty points does the driver have?"

As opposed to

"Whether there is any reasonable cause, in other words whether in all circumstances of the case a driver is a fit and proper person to continue to enjoy licence." (para 77)

It can therefore be seen by the above that Council penalty points schemes are lawful provided there is a mechanism to enable an offending licence holder to be brought before a delegated decision maker (the Licensing Sub Committee) which will then consider the question of fitness and propriety in the light of the evidence and then determine what sanction, suspension or revocation, if any, should be applied.

Taxi licensing penalty points schemes are widely used throughout England including some in Leicestershire. Once embedded they work well and are popular with taxi drivers and operators as it does not affect lawful and well run businesses and appropriately behaved drivers, but tends to weed out the ones that continue to offend and ignore the rules.

	<b>OFFENCE/BREACH OF CONDITION</b>	<b>MAXIMUM POINTS APPLICABLE</b>	<b>DRIVER</b>	<b>VEHICLE OWNER OR OPERATOR</b>
1	Failure to notify in writing the Council of changes of address within 7 working days.	3	✓	✓
2	Failure to hold current vehicle tax	3		✓
3	Failure to produce relevant documents within a reasonable time when requested by an authorised officer	3	✓	✓
4	Unsatisfactory condition of vehicle – Interior or Exterior	3	✓	✓
5	Failure to produce Hackney Carriage or Private Hire vehicle for testing or inspection when required	3	✓	✓
6	Misuse of taxi rank	3	✓	
7	Failure to report to an authorised Officer within 72 hours an accident or damage to a licensed vehicle which would cause a vehicle to breach the licence conditions	3	✓	✓
8	Failure to display external or internal licence plate or signs as required	3	✓	✓
9	Failure to notify transfer of Hackney Carriage or Private Hire Licence	3		✓
10	Failure to carry appropriate fire extinguisher	3	✓	✓
11	Failure to carry an approved first aid kit	3	✓	✓
12	Displaying unsuitable or inappropriate sited signs or advertisements in or on the vehicle	3		✓
13	Failure to use authorised roof light	3	✓	

14	Failure to maintain records in a suitable form from the commencement to the cessation of work of each driver each day	3		✓
15	Failure to produce on request records of drivers work activity	3		✓
16	Failure to maintain proper records of Private Hire vehicle within 21 days	3		✓
17	Evidence of smoking in vehicle	3	✓	
18	Failure to wear drivers badge	3	✓	
19	Unsatisfactory appearance of driver	3	✓	
20	Failure to observe rank discipline	3	✓	
21	Misleading use of the words "Taxi" or "Cab" on advertising materials	3		✓
22	Failure to return vehicle licence plate within 7 days after due notice, following expiry, revocation or suspension of such licence	3		✓
23	Failure to display fare/tariff card	3	✓	✓
24	Fail to attend punctually to a fare at appointed time and place without sufficient cause	3	✓	✓
25	Unlawful waiting or stopping on a double yellow area, bus stop or private land (without the owner's permission)	3	✓	
26	A licensed vehicle with a bald tyre	3 per tyre	✓	✓
27	Submission of false or misleading information to Regulatory Services of Melton Borough Council.	6	✓	✓
28	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	12	✓	

29	Failure to undergo the vehicle interim compliance test	6		✓
30	Failure to provide proof of insurance within 7 days	6	✓	✓
31	Carry more passengers than stated on the vehicle licence	12	✓	
32	Using a non approved or non-calibrated taximeter	6	✓	✓
33	Displaying any feature on Private Hire vehicle that may suggest that it is a taxi	6		✓
34	Using a vehicle the appearance of which suggests that it is a taxi	6		✓
35	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6		✓
36	Failure to notify the Council, in writing, of any motoring or criminal convictions within 21 days of conviction or cautions during period of current licence	6	✓	✓
37	Failure to submit a licence renewal application including documents and attendance at a vehicle inspection	6	✓	✓
38	Failure to give assistance, when requested, with loading/unloading luggage to or from any building or place	6	✓	
39	Plying for hire by Private Hire vehicle	9	✓	✓
40	Driving whilst using a mobile phone	9	✓	
41	Refusal to accept hiring without reasonable cause e.g. drunk or rude customer	12	✓	
42	Using unlicensed vehicle or vehicle without insurance	12		✓

43	Using a vehicle subject to a suspension order issued by an Authorised Officer or a Police Officer	12	✓	✓
44	Using a vehicle for which the licence has been suspended or revoked	12	✓	✓
45	Carrying an offensive weapon in the vehicle	12	✓	
46	Obstruction of an Authorised Officer or Police Officer wishing to examine a licensed vehicle	12	✓	✓
47	Failure to carry an assistance dog without requisite exemption	12	✓	✓
48	Driver not holding a current DVLA licence	12	✓	✓
49	Failure to issue receipt on request	12	✓	
50	Unsatisfactory behaviour or conduct of driver	6	✓	
51	Failure to behave in a civil and orderly manner	12	✓	✓

Bye-Laws Made By  
The Council of the Borough of Melton  
With Respect To  
Hackney Carriages Plying  
For Hire



**MELTON BOROUGH COUNCIL**  
**BYE-LAWS**

**Bye Laws made under Section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875 by The Council of the Borough of Melton with respect to hackney carriages within the Borough of Melton.**

**Interpretation**

1. Throughout these bye laws 'the Council' means The Council of the Borough of Melton and 'the district' means the Borough of Melton.

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

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

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

3. The proprietor of a hackney carriage shall:

- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
  - (b) cause the roof or covering to be kept watertight;
  - (c) provide any necessary windows and a 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 carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say:-
- (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter;
  - (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
  - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
  - (d) the word 'FARE' shall be printed on the face of the taximeter in plain letters so as to clearly apply to the fare recorded thereon;
  - (e) the taximeter shall be so placed that all the letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage;
  - (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.
5. The driver of a hackney carriage provided with a taximeter shall:-



- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of this byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - (b) before beginning a journey for which a fare is charged by distance and time bring the machinery of the taximeter into action by moving the said key or flag or other device so that the word 'HIRED' is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is between half and hour after sunset and half and hour before sunrise and also at any other time at the request of the hirer.
6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
- (a) proceed with reasonable speed to one of the stands appointed by the Council pursuant to section 63 of the Local Government (Miscellaneous Provisions) Act 1976;
  - (b) if a stand, at any time of his arrival, is occupied by the full number of carriages 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 so as to face in the same direction; and
  - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
10. the proprietor or driver of a hackney carriage who has agreed or has been hired 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 appointed time and place.
11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such a position and manner to be clearly visible.

13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
- (a) convey a reasonable quantity of luggage;
  - (b) afford reasonable assistance in loading or unloading;
  - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

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

14. The proprietor or driver of a hackney carriage shall be entitled to demand and take for hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance and time unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance and time the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council, which may not be possible to record on the face of the taximeter.

15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

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

16. The proprietor or driver of a hackney carriage shall immediately after the termination of the hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:

Carry it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner, to a police station in the district and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and

- (a) Be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station in the district, whichever is the greater but not more than five pounds.

## **Penalties**

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

THE COMMON SEAL of  
THE COUNCIL OF THE BOROUGH OF MELTON  
Was hereunto affixed  
The                day of  
In the presence of

Solicitor to the Council  
Proper Officer.