

# General Licensing Committee Agenda



**9.30 am Tuesday, 28 July 2020  
Via Microsoft Teams**

**In accordance with Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held on a virtual basis. Members of the Public can view a live stream of the meeting at:**

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**Members of the public wanting to raise issues/make representations at the meeting can do so by emailing [Allison.hill@darlington.go.uk](mailto:Allison.hill@darlington.go.uk) 24 hours before the meeting begins.**

1. Introductions/Attendance at Meeting
2. Appointment of Chair for the Municipal Year 2020/21
3. Appointment of Vice-Chair for the Municipal Year 2020/21
4. Declarations of Interest
5. To consider the time of future meetings of this Committee for the Municipal Year 2020/21
6. To approve the Minutes of the meeting of this Committee held on 14 January 2020 (Pages 1 - 2)
7. To approve the Minutes of the meeting of the General Licensing Sub Committee held on 17 March 2020 (Pages 3 - 4)
8. Review of Policies and Conditions Relating to Hackney Carriages and Private Hire Vehicles and their drivers and operators –  
Report of the Director of Economic Growth  
(Pages 5 - 190)
9. Minor Update of Fees Relating to Pavement Cafe Licences –  
Report of the Director of Economic Growth  
(Pages 191 - 218)

10. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting

11. Questions



**Luke Swinhoe**  
**Assistant Director Law and Governance**

**Monday, 20 July 2020**

**Town Hall**  
**Darlington.**

**Membership**

Councillors K Nicholson, Lee, Clarke, Crumbie, Donoghue, Dulston, Haszeldine, C L B Hughes, B Jones, Newall, A J Scott and Snedker

If you need this information in a different language or format or you have any other queries on this agenda please contact Allison Hill, Democratic Officer, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays Email: [allison.hill@darlington.gov.uk](mailto:allison.hill@darlington.gov.uk) or telephone 01325 405997

## GENERAL LICENSING COMMITTEE

Tuesday, 14 January 2020

**PRESENT** – Councillors K Nicholson (Chair), Lee, Clarke, Crumbie, Donoghue, Haszeldine, C L B Hughes, B Jones, Newall, A J Scott and Snedker

**APOLOGIES** – Councillor Dulston

**OFFICERS IN ATTENDANCE** – Amy Wennington (Principal Lawyer (Litigation)), Graham Hall (Head of Community Safety), Colin Dobson (Licensing Manager), Brian Murray (Assistant Licensing Manager) and Allison Hill (Democratic Officer)

### LG13 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

### LG14 MINUTES OF THE GENERAL LICENSING COMMITTEE

Submitted – the Minutes (previously circulated) of the meeting of the General Licensing Committee held on 12 November 2019.

**RESOLVED** – That the Minutes of the meeting of the General Licensing Committee held on 12 November 2019 be approved as a correct record.

### LG15 MINUTES OF THE GENERAL LICENSING SUB COMMITTEE

Submitted – The Minutes (previously circulated) of the meeting of the General Licensing Sub-Committee held on 12 November 2019.

**RESOLVED** – That the Minutes of the meeting of the General Licensing Sub-Committee held on 12 November 2019 be approved as a correct record.

### LG16 REVIEW OF TAXI LICENSING FEES FOR 2020-21

The Director of Economic Growth submitted a report (previously circulated) for Members of this General Licensing Committee, under delegation by Full Council, to give consideration to the licence fees relating to hackney carriage and private hire drivers along with their vehicles and operators.

It was reported that the fees are reviewed annually, based on the cost recovery of administering and where appropriate enforcing the relevant legislation relating to such licences.

In respect of taxi licensing, legislation permits the Council to recover all or part of the costs of providing the taxi licensing services, including its administration and control. Surpluses must be carried forward and deficient may be carried forward to future years within each ring-fenced licensing budget.

It was reported that this financial year has seen the embedding of a new licensing team structure following a review of the Community Safety Section in 2018 and the introduction of processes to scan all taxi licence applications onto a secure database

from January 2019 which take additional time; and there has also been an increase in the general work load of Licensing Officers throughout 2019, particularly with the introduction of new Animal Welfare Regulations in October 2018.

It was also reported that Licensing are engaging with IT suppliers to find the most suitable system to allow members of the public to make full applications on-line to the level required by this Licensing Authority.

The submitted report outlined the Local Government Association's guidance on the following activities that can be included in calculating the fee on a cost recovery basis; the review of the taxi licensing fees undertaken for the current financial year which showed the carry forward income for Hackney Carriages was expected to be £20,222 and £19,212 for private hire, giving a total surplus to carry forward of £39,434, a reduction of the surplus for the previous year of £62,373; and the proposed fees for 2020/21 to remain at their current level for Hackney Carriage Vehicles, Private Hire Vehicles, Driver Licence and Operator's Licence.

Members discussed in particular the requirement to reduce the surplus balanced against the need to retain a surplus for future developments; the Local Government Association guidance on what activities can be included in calculating the fee and what is included with this authority; the current situation in Darlington where taxi operators are registered with another authority.

**RESOLVED** – That this General Licensing Committee approve the taxi licensing fees to continue at their current rate from 1 April 2020.

## GENERAL LICENSING SUB COMMITTEE

Tuesday, 17 March 2020

**PRESENT** – Councillors Clarke, Donoghue, Dulston, Lee and K Nicholson

**OFFICERS IN ATTENDANCE** – Amy Wennington (Principal Lawyer (Litigation)), Allison Hill (Democratic Officer), Brian Murray (Assistant Licensing Manager) and Sgt C Dickenson (Durham Constabulary)

### LGS17 ELECTION OF CHAIR

**RESOLVED** - That Councillor Lee be elected Chair for the purpose of this meeting

### LGS18 DECLARATIONS OF INTEREST

There were no declarations of interest reported at this meeting.

### LGS19 EXCLUSION OF THE PUBLIC AND PRESS

**RESOLVED** – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 7 of Part 1 of Schedule 12A to the Act.

### LGS20 PRIVATE HIRE DRIVER LICENCE REVIEW (EXCLUSION PARAGRAPHS 1 AND 7)

The Director of Economic Growth submitted a report (previously circulated) to give consideration to a review of a Private Hire Driver Licence in light of a new conviction for using a vehicle uninsured against third party risks.

The driver attended the meeting and responded to Members questions in relation to the above, as to why they felt that they were a fit and proper person to hold a Private Hire Driver Licence.

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions and Endorseable Fixed Penalties in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; and Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

**RESOLVED** – That the licence retained and the drive be issued with a final warning letter in respect of future conduct and warned that if any further convictions, cautions, warnings or reprimands are received they would be referred immediately to the General Licensing Sub-Committee.

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## **GENERAL LICENSING COMMITTEE 28 July 2020**

### **REVIEW OF POLICIES AND CONDITIONS RELATING TO HACKNEY CARRIAGES, PRIVATE HIRE VEHICLES AND THEIR DRIVERS AND OPERATORS**

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**Responsible Cabinet Member - Councillor Jonathan Dulston  
Responsible Director - Ian Williams**

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## **SUMMARY REPORT**

### **PURPOSE OF THE REPORT**

1. To invite Members to approve the draft of the Council's revised policy document in respect of Hackney Carriages and Private Hire vehicles, their drivers and Operators, which is due to take effect from 01 January 2021. (Appendix 1 contains proposals and Appendix 2 is a draft of the policy)

### **SUMMARY**

2. This report seeks Members approval for public consultation on the Council's Taxi Licensing Policy. The revised Policy reflects changes to licensing and other legislation and includes the latest government and professional body guidelines. The Policy was last approved on 1<sup>st</sup> January 2016.

### **RECOMMENDATIONS**

3. The Licensing Committee is requested to approve this draft of the Taxi Licensing Policy for public consultation which will be applied to all licences from 01 January 2021.

### **REASONS**

4. To introduce and reinforce measures to ensure the protection of the general public, in particular children and vulnerable adults and to provide an enforcement framework that takes account of legislative changes and amendments whilst providing encouragement and support to the taxi trade in the Borough.

**Ian Williams  
Director of Economic Growth**

Contact officer: Colin Dobson Ext 5988

## BACKGROUND PAPERS

The Equality Act 2010

The Town Police Clauses Acts 1847 & 1889

The Local Government (Miscellaneous Provisions) Act 1976

Darlington Council's Byelaws in respect of Hackney Carriages, 1990

Immigration Act 2016

The Current Policies and Conditions in respect of Hackney Carriage and Private Hire Vehicles, Drivers and Operators

### Appendices:

1. Summary of the proposed amendments to the Policy
2. The proposed Policy

S17 Crime and Disorder	This report addresses issues specifically relating to criminal offences
Health and Wellbeing	Covid-19 is an ongoing issue that will need to be considered throughout this policy in line with government guidelines
Efficiency	This report has no impact on the Council's Efficiency Programme.
Diversity	The proposals will increase equality of opportunity for the disabled travelling public
Carbon Impact	Reduced emission and promotion of renewable energy will be addressed in this policy
Wards Affected	The proposals affect all Wards
Groups Affected	The proposals affects all travellers
Budget and Policy Framework	This report represents a change to Policy
Key Decision	The proposals do not represent a key decision
Urgent Decision	This is not an urgent decision
Delivering Success for Darlington	The proposals contribute to the growth of a sustainable economy whilst protecting the general public
Impact on Looked After Children and Care Leavers	This report has no impact on the Council's impact on Looked After Children and Care Leavers



## MAIN REPORT

### BACKGROUND

5. Hackney carriages are public hire vehicles which are permitted to ply for hire in the controlled district of Darlington and also from designated taxi ranks within Darlington. They may also undertake pre booked fares. Private hire vehicles on the other hand are limited to pre booked fares only and such bookings must be made through a licensed private hire operator. The licensing of hackney carriage and private hire vehicles, drivers and private hire operators is regulated by a range of legislation but specifically the Town Police Clauses Act 1847 (the 1847 Act) and The Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act).
6. Currently, hackney carriages and private hire are controlled by a mixture of Council policies, licence conditions and byelaws. The 1976 Act permits the Council to attach conditions to the grant of Private Hire Driver and Operator Licences and Private Hire and Hackney Carriage Vehicle Licences “as it may consider reasonably necessary”. The 1847 Act permits the Council to make Byelaws to regulate the conduct of Hackney Carriage Drivers. Policies are the overreaching requirements of licensing by Darlington Borough Council (e.g. age of vehicles, medicals, driver tests etc) and these are usually a pre-requirement to making an application. NB conditions cannot be attached to Hackney Carriage Driver Licences with the current legislation.
7. The 1976 Act also gives a right of appeal to the Magistrates’ Courts to any person who is aggrieved by any of the conditions placed on a licence. Such appeal must be made within 21 days of receipt of licence.
8. The policies and conditions relating to the taxi trade were last reviewed and approved by Council for implementation on 1<sup>st</sup> January 2016 following full consultation.
9. All policies and conditions have been revisited and as a result, some have been reviewed. Appendix 1 to this report details the proposed amendments to the Policy. The revised Policy is attached at Appendix 2.
10. At the time of writing this report, Darlington Council has 175 licensed Hackney Carriage vehicles and 103 licensed private hire vehicles. Of these 13 are wheelchair accessible, (7 hackney carriages and 6 private hire vehicles). For simplification, both types of vehicles are referred to in this report as “Taxis”. In addition there are also 164 hackney carriage drivers, 167 private hire drivers and 109 combined hackney carriage and private hire licensed drivers and 3 Private hire operators.
11. Licences are currently granted for up to three years. Changes to current licences can therefore only take effect at the renewal of licence. If Members are minded to approve the introduction of the new policies and conditions,

these will phased in when a renewal licence is granted. This will mean that the new conditions will apply to the entire current trade within a three year period but will apply to all new applicants with immediate effect from the 1<sup>st</sup> January 2021.

## **THE CONSULTATION PROCESS**

12. At the beginning of this year the Licensing Department issued communications to say that a review of this policy would be taking place and a draft would be ready for formal consultation later in the year.

### **Consultation with Licence Holders**

13. Most licence holders are aware of the pending review and this will be widely advertised through Darlington Borough Council website, social media and personal contact. When approved for public consultation contact will be made with them once again.

### **Consultation with other Stakeholders**

14. A consultation exercise will also be undertaken with other stakeholders including Darlington Borough Council Members, Durham Constabulary, Immigration Enforcement, Durham Fire Authority, Darlington Association on Disability (DAD), Highways, Environmental Health, Trading Standards, Planning, Public Health, Darlington Safeguarding Partnership, Home to School Transport Section and other local transport providers. These stakeholders will contribute directly into the conditions contained within the Policy.
15. The four other Tees Valley Local Authorities and Durham County Council will be directly consulted upon and this will also be made available to the North East Strategic Licensing Group (NESLG), which Darlington is a member.

## **CONSULTATION WITH THE LICENSING COMMITTEE**

16. Members are respectfully asked to consider the proposed changes to the policy.

## **EQUALITIES IMPACT ASSESSMENT**

19. The full policy was subject to an Equalities Impact Assessment when last reviewed in 2016 and DAD have been closely involved in the consultation process. There is nothing contained within this report that would adversely impact upon that assessment.

## **FINANCIAL IMPLICATIONS**

**20.** There are no financial implications arising in respect of this report.

## **CONCLUSION**

**21** The proposed changes to policy and conditions will provide clarity for the licensed trade and ensure the licensing regime will continue to protect the travelling public.

## Appendix 1

### Proposed Changes to Taxi Licensing Policy for consultation

#### **To subscribe to Disclosure and Barring Service (DBS) update service**

1. Licensed drivers are currently required to provide an up to date record of their criminal history (an Enhanced Disclosure & Barring Service (DBS) check) on initial application and every three years thereafter. The cost of these checks is currently £44 and this is payable by the driver.
2. The requirement for a new DBS certificate every three years was relatively common practice and was deemed appropriate as taxi driving had historically been classed as a 'Notifiable Occupation' and, as such, the Police would notify a licensing authority if a driver had come to their attention between DBS checks.
3. The 'Notifiable Occupation' scheme has been replaced by 'Common Law Police Disclosures' with the effect that the Police will now only notify a licensing authority where they consider there is a 'pressing social need' to do so.
4. In reality, this has significantly reduced the amount of information being passed to licensing authorities by the Police and, as such, licensing authorities may not now be made aware of a driver's new cautions, convictions or other serious matters until the driver's next DBS check is due – which may be up to three years.
5. As a consequence, the new draft policy proposes that drivers must provide an Enhanced DBS certificate to the licensing authority every 12 months.
6. As the cost of each such certificate is £44, it is recognised that this would create a significant additional financial burden for drivers and, as such, it is proposed that drivers enrol on the DBS 'Update Service'. The Update Services allows for drivers to pay an annual fee of £13 and for which, in return, their DBS history can be viewed at any time, on line, for no additional cost.
7. Provided that the annual fee continues to be paid, a driver's criminal record can be checked by a licensing authority without the need for further DBS certificates.
8. After payment of the initial £44 for an Enhanced DBS certificate the driver must immediately pay an additional £13 to join the Update Service and

then, after that, £13 annually. There would no longer be a requirement for the driver to pay £44 every three years for a new certificate and therefore, after the initial additional payment, this would represent a cost saving for drivers.

9. For those drivers who choose not to join the Update Service, they would be required to provide the Council with a new certificate each year at a cost of £44. For this reason, the draft policy recommends, and expects, that all drivers enrol on the DBS Update Service.
10. Subscribing to this update service will be integral in modernising the application process when an on-line system is introduced.

### **NR3 Register**

1. Drivers who have had their licence refused or revoked by a licensing committee for reasons that have not resulted in a criminal conviction or police involvement could in theory apply to a different local authority for a licence. If that driver failed to disclose that they had previously had a licence refused/revoked, that licensing authority could, after doing all their necessary checks, issue a licence to that driver, which could compromise the safety of the public.
2. The NR3 register is a database administered by the government appointed National Anti-fraud Network (NAFN) who maintain a national record of all drivers who have had their taxi/private hire driver licence refused/revoked. This register fully complies with The Data Protection Act 2018 and GDPR.
3. It allows officers who are processing an application to check the applicants details against this database to ensure that they have not had a licence refused/revoked by another licensing authority. If the Officer finds an applicant on this register, contact details are provided for the licensing authority refusing/revoking the licence so that the Officer can make further enquiries before continuing with the licensing process. A person on this register will not automatically be refused a licence, however it is another measure to protect the public.
4. Further to this, the current policy recognises that there are no statutory provisions within the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 which allow for the voluntary return of a driver's licence, however there are many legitimate reasons why a driver may wish to return their licence. To enhance the effectiveness of the NR 3 Register it is proposed that a voluntary return of a licence will not be considered whilst an active investigation is being carried out. The conclusion of an investigation may ultimately result in the

revocation of a licence and this would not be recorded on this register should the licence be surrendered prior to the conclusion of an investigation.

5. This register has been in place since May 2019 nationally and it is proposed for inclusion in this policy to introduce consistency and clarity in assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

### **Disability Awareness Training**

1. Included in the current policy is for all drivers to have completed a Child Sexual Exploitation awareness course. This is currently being delivered by Barnardo's at a cost to the driver. This cost has increased since its implementation and the Tees Valley Licencing Group, of which Darlington is a member, have decided to develop a bespoke course to replace that being delivered by Barnardo's. A website domain has been purchased and the course is currently being developed with a cost saving that will be passed to the drivers.
2. As we are the website domain owners it is possible to develop further on-line courses, at no or little cost to the drivers in other areas of concern. One such area is that of disability awareness. Although there is no requirement for drivers to partake in this form of training unless they have a wheelchair accessible vehicle, it has always been recommended as good practice for all drivers.
3. When this training package has been fully developed and available on-line it is proposed that Disability Awareness becomes a mandatory course for all new applications and existing drivers within a predetermined timescale.

### **Insurance 'write offs'**

There are four categories of 'insurance write off's':

**Category A** - Scrap only. For cars so badly damaged they should be crushed and never re-appear on the road. Even salvageable parts must be destroyed.

**Category B** - Body shell should be crushed. Signifies extensive damage, although some parts are salvageable. Should never re-appear on road, although reclaimed parts can be used in other road-going vehicles.

**Category S** (formally Category C) - The new Category S means the vehicle has suffered structural damage. This could include a bent or twisted chassis, or a

crumple zone that has collapsed in a crash. Category S damage is more than just cosmetic, and the vehicle will need to be professionally repaired.

**Category N** (formally Category D) - Vehicles graded accordingly haven't sustained structural damage, so the issue may be cosmetic, or a problem with the electrics that isn't economical to repair.

1. The current policy will **not** allow any vehicle that has been declared an 'insurance write off' to be licenced. Being an insurance 'write off' means that it is not economical to make the necessary repairs but as highlighted in the categories above it is still possible, under certain circumstances, to make a vehicle safe and road worthy again. Insurance companies will make an assessment to 'write off' a vehicle based on the length of time a mechanic would need to make good the repairs and for any additional parts. Over the years there has been significant advances in technology and improved safety of vehicles for this policy to be reconsidered.
2. It is proposed that DBC allow vehicles in Category N (No structural damage) to be licenced.
3. Non-structural damage is often related to electrical faults that are too time consuming to diagnose, making any potential repair uneconomical. An enthusiast or a specialist in a particular field however may be able to dedicate sufficient time to diagnose and make an economical repair to the fault. This would allow those in the trade to purchase vehicles at a lower cost and perhaps keep their own vehicle on the road longer. Any application to licence such a vehicle would be on the provision that an engineer's report says it is safe and it has been declared suitable by DBC mechanics.

## **Colour**

1. The colour specified for hackney carriage vehicles in the current policy red. It has however been noted by a number of people (including Purple Flag assessors) that Darlington has different coloured hackney carriage vehicles. Although vehicles may be classed as red on their log book there are a large range of shades that although classed as red may appear to be brown or a burgundy colour.
2. James Button, who is one of the country's leading taxi licensing solicitors recommends that policies specify a pantone colour to ensure consistency. Pantone is an internationally recognised colour chart where each shade has a specific number.
3. A basic red, Pantone 485, is proposed for Darlington. This is the same red used by the Royal mail. If this was to be specified, a phased approach

would be proposed so that it only applies to new vehicles, not those already on the fleet.

4. Members of the trade might argue that Pantone 485 may not be manufactured in the model of vehicle they would like, however we would propose allowing the 'wrapping' of the vehicle to circumvent this issue. This is a cheaper alternative to spraying and will actually provide protection to the paintwork underneath.

### **Age restriction and emissions**

1. The issue of vehicle emissions has become extremely important in recent years with requirements for radical reductions. Standard European emission limits have been introduced for new vehicles as follows

Euro 1 – Mandatory for all new cars from 1993

Euro 2 – Mandatory for all new cars from 1997

Euro 3 – Mandatory for all new cars from 2001

Euro 4 – Mandatory for all new cars from 2006

Euro 5 – Mandatory for all new cars from 2011

Euro 6 – Mandatory for all new cars from September 2015

2. The current policy only allows a vehicle to be licenced if it is initially under three years old and can no longer remain on the fleet after it is six years old unless it is exceptionally well maintained.
3. The exceptionally well maintained element has fallen into disrepute over the years and vehicles have effectively remained on the fleet far longer than was envisaged. This has resulted in an aging fleet with older engines producing higher, more toxic emissions.
4. The North East Strategic Licensing Group (NESLG) agreed a minimum standard, and it is proposed that DBC apply this standard, of a vehicle required to be under 4 years to be licenced and at 8 years it will no longer remain on the fleet.
5. To comply with this standard the exceptionally well maintained element will be removed from the policy. This in effect will allow vehicles one year older to be licensed in the first instance however, there will be a requirement for it to be removed from the fleet after 8 years, 2 years longer than the current policy.
6. This would be applied from 1st April 2023, which would mean that all vehicles will need to comply with Euro 6 emissions standards by this time. It will also give drivers over 2 years notice for them to plan ahead should they need to change their vehicle.



7. There will be no age restrictions for emission free vehicles.
8. Concessions to this age policy will be available for wheelchair accessible vehicles to encourage their uptake.

### **On-line application and payments**

1. With the proposed introduction of a new on-line application system, all applications will be processed using this system and payments will be made electronically. This will be essential if the new system is to work correctly.
2. Payment method is a decision that can be made locally and it is suggested this is included in the policy. Some members of the trade will argue that they don't have bank accounts or e-mails to do on-line applications and payments. We would argue that they all have access to e-mail and will have a bank account to run their business or receive a wage.
3. If on the very rare occasion this was not the case then the application could be completed by an agent. Consultation with other local authorities that have introduced on-line applications along with electronic payments have not experienced any issues with this process.

### **Reduce processing time for applications**

1. Whilst it is always the aim to process applications as quickly as possible our current policy states that it will be processed within 6 months of application. With the introduction of a new on-line application system, it is a considered opinion that this time can be reduced to 3 months, subject to the availability of essential documents and a Licensing Committee, should a hearing be required for a decision.

### **CCTV**

1. This refers to CCTV inside the vehicle cabin, not dashboard cameras that are outward facing and widely used by many motorists. It is not proposed to make this a mandatory requirement in this policy however it is recommended that where possible drivers consider their use.
2. Although some LA's have mandated CCTV, there is no compelling evidence that they are necessary in Darlington at the moment. If they were to be mandated, the Council would become data controllers under

General Data Protection Regulation (GDPR). This is a situation we can keep under constant review in accordance with national guidelines

## **Tinted Windows**

1. The current policy requires **rear** windows to allow **70%** light transmission (Front windows have statutory requirements 75% and 70% ). Many vehicles are now manufactured with rear window tints less than 70% as standard meaning drivers are having to replace windows at great expense before they can be licensed.
2. Although the argument for tints has always surrounded safeguarding children there is no evidence that this has a contributing factor. Many Local Authorities have no requirements for tints, however we feel that having totally darkened windows may create unnecessary anxiety among some groups.
3. During consultation with local disability groups, some have expressed a concern that they feel like they are in a 'goldfish bowl' when in wheelchairs in the rear of vehicles and would welcome reduced light transmission.
4. It is proposed that window tint be reduced to 30%, which will represent a cost saving to the trade whilst having no impact on safety. Indeed, by having darker windows it will also reduce the amount of UV light exposure, which is one of the reasons why standard tinting has increased over the years.

## **Previous convictions**

1. Licensing processes place a duty on the local authority to protect the public. Given the nature of the role it is vital that those seeking a living in this trade meet the required standards. Previous offending behaviour can be considered a predictor in determining future behaviour and it is essential that this is taken into account when making decisions, along with the time elapsed since that behaviour occurred.
2. There is extensive research into the reasons why some individuals commit crime, why some learn from their mistake and why others spiral into a cycle of repeat offending. One common theme is that no two crimes are the same and that risk cannot be eliminated or future predicted. What can be done however is to examine each case on its individual merit.
3. Taxi drivers/private hire drivers and operators have access to sensitive information on individual customers such as their contact details, address, movements, vulnerabilities etc, that could be exploited by others. We have acknowledged guidance from the Institute of Licensing (IOL) in a

document entitled '**Guidance on determining the suitability of applicant and licensees in the hackney and private hire trades**', and propose an increase in the number of years an applicant must remain conviction free before their application will be accepted. This guidance, which was published in April 2018 was produced in partnership with, Lawyers in Local Government (LLG), National Association of Licensing Enforcement Officers (NALEO) and the Local Government Association (LGA).

- The list of offences is extremely large so most have now been placed into categories. The chart below shows what DBC's current conviction policy is in relation to a category of offence and what is proposed under the IoL guidelines.

<b>Category</b>	<b>Current policy</b>	<b>Proposed</b>
Drink Driving	5	7
Drugs	5	10
Dishonesty	5	7
Violence	5	10
Public Order	3	5
Sexual Offending	Ordinarily refuse	Ordinarily refuse

- Any offence that has been deemed to be aggravated due to discrimination of any kind will not be granted a licence until at least 7 years have elapsed since the completion of any sentence imposed.
- Where an applicant has more than one conviction showing a pattern of behaviour irrespective of time that elapsed should be given serious consideration as to whether they will be a safe and suitable person.

## **Advertising**

- Using vehicles for advertising is becoming a common feature and is an additional way to help the trade generate income. DBC policy allows advertising to be used on vehicles in a prescribed manner, however it would appear that vehicles are now applying wrapped advertising to whole panels that have a different background colour to the vehicle. This was not considered when the current policy was approved. It enhances the advertisement, which is the intention, however it can make the vehicle look unsightly.
- It is proposed that the advert be limited in size (to the lower half of the rear quarter panel only) and the underlying colour of the vehicle must be visible. Timescales will be determined with the trade for removal if this was to be implemented so that it does not create unnecessary additional costs to the trade.

## **Spare wheels**

1. In the current policy a spare wheel is a requirement, however some vehicles are now manufactured without a spare wheel as standard and a pressurised tyre sealant is provided for emergencies. This has reduced the number of vehicles available for use as a taxi/private hire vehicles for the trade.
2. Whilst these sealants were used with caution when first introduced, research into their use and technology advancements in recent years has shown there is no evidence that they compromise safety. Indeed some research has shown that a repair with these sealants may last the normal lifetime of the tyre if it does not interfere with the structural integrity. This however is not their intended use as they are for emergency short term repairs only and manufacturer's instructions should be followed at all times.
3. The use of these sealants would be welcomed by the trade as it will increase the choice of vehicles available to purchase, which will inevitably lead to a saving for them.
4. They are not to be used to replace a spare wheel where that is a standard part of the vehicle.



# **Private Hire and Hackney Carriage**

# **Licensing Policy 2021**

## Chair of Licensing Committee

Picture of Chair here

**Foreword by Councillor ??**

**Chair of Licensing Committee**

### Introduction

1. Hackney carriages and private hire vehicles play an important part in the provision of local transport. They provide a flexible form of public transport and can play an increasingly important role in improving accessibility. They are also used by all social groups.
2. The purpose of the Local Authority when licensing hackney carriages and private hire vehicles, drivers and operators is to protect the public. Darlington Council (The Council) is aware that the public should have reasonable access to safe and comfortable hackney carriages and private hire vehicles because of the role they play in local transport provision.

## Appendix 2

3. 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 designated taxi stands or be hailed in the street by members of the public.
4. Private hire vehicles will have no more than 8 passenger seats however, they must be booked in advance through an operator and cannot ply for hire in the street.
5. Local authorities are responsible for the licensing, administration and enforcement of hackney carriage and private hire vehicles in their areas.

### **Powers and Duties**

6. The Council has adopted Part 2 of The Local Government (Miscellaneous Provisions) Act 1976 (Minute C140/Feb/80). This legislation, together with the provisions of The Town Police Clauses Act 1847, places on the Council the powers and duties to carry out licensing functions in respect of hackney carriage and private hire licensing. As such the Council is responsible for the licensing of private hire drivers, vehicles and operators and hackney carriage drivers and vehicles. This document sets out the policy that the Council will apply when making decisions about new applications and licences currently in force.

### **Objectives**

7. **The principal purpose of Hackney Carriage and Private Hire licensing is to protect the public and promote public safety**

8. The objectives of this Policy are as follows:

To protect the interests of the travelling public, **safeguarding children and the vulnerable** by:

Ensuring that the drivers of such vehicles and private hire operators are "fit and proper" persons.

Ensuring that safe, clean, reliable and accessible hackney carriage and private hire vehicles are available for all who require them.

To provide clarity for licensees with regard to the Council's expectations and the decision making process.

To encourage environmental sustainability.

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To encourage high standards of professionalism in the hackney carriage and private hire trade.

9. This policy shall apply in respect of applications, renewals, transfers and any other related matters connected to the following licences

- a) Hackney carriage driver
- b) Hackney carriage vehicle
- c) Private hire driver
- d) Private hire vehicle
- e) Private hire operator

10. This Policy shall also apply in respect of disciplinary and enforcement measures and will introduce a code of conduct to be followed by all persons licensed under this Policy

11. In promoting these licensing objectives, the Council will generally expect to see licence holders and applicants continuously demonstrate that they meet or exceed the standards set by the Council.

### Licensing Methods

12. The methods we shall use are as follows:

- a) Setting the standards for the licensing of drivers, vehicles and operators.
- b) Annual licensing and routine inspection of vehicles, with appropriate follow up action.
- c) Routine inspection of insurance policies and Certificates of Compliance / MOT certificates, with appropriate follow up action.
- d) Checks of driver's immigration status, medical health, criminal record, driving ability, knowledge of safeguarding vulnerable passengers and knowledge of the Borough, including legislative controls.
- e) Investigation of complaints with appropriate follow up action.



## Appendix 2

- f) Liaison with the Police and other agencies regarding issues of mutual concern in relation to offences or the conduct of licensees.
  - g) Liaison with the hackney carriage and private hire trade by way of open meetings and the use of modern communication tools.
  - h) Taking enforcement and/or disciplinary action including the issue of prosecution proceedings, verbal and written warnings, simple cautions, suspension or revocation of licences for breaches of legislation or conditions.
  - i) Conditions added to licences.
  - j) The issue of guidance notes.
  - k) Disability awareness training
13. When considering applications and taking enforcement action the Council is subject to the Regulatory Compliance Code, the Council's Enforcement Policy and the Code for Crown Prosecutors.

### Best Practice Guidance

14. In formulating this Policy the Council has considered the most recent best practice guidance issued by the Department for Transport (DfT) along with guidance issued by the Local Government Association and the Secretary of State.

### Status

15. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy and the objectives set out above.

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16. Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from the Policy, clear and compelling reasons will be given for doing so.

### Implementation and Review

17. This Policy will take effect from 1 January 2021. From the effective date, this Policy will override and supersede all existing policies in relation to the licensing of private hire and hackney carriages, their drivers and operators.

18. The Council will keep this Policy under review and will consult where appropriate on proposed revisions. A full review of the Policy will be conducted every five years from the date of effect above.

19. When this Policy is implemented, the Council will require licence holders to comply with its terms immediately or, where appropriate, from the renewal of a current licence. Where it is not possible to comply with part of the Policy due to an outstanding action required by the Council, information will be provided as to an implementation date for that part.

20. The Council may monitor and review this Policy or areas of the Policy prior to the five year review period when considered necessary.

21. After the introduction of this Policy, the Council may make decisions, which change the content of this Policy. The changes may either have immediate effect or come into effect on a given date. This Policy document will be regularly updated to reflect these changes. Amended copies of the Policy will be available from the Licensing Office and via the internet. **A fee may be charged for a printed copy available on request from the Licensing Office.**

### Consultation

22. **In preparing this policy the council has consulted widely and a full list of those consulted is set out in Appendix XX**

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### Local area profile

23. Darlington is a medium sized town with a total population of just over 106,000. The River Tees and North Yorkshire lie to the south, the Teesside conurbation to the east, County Durham to the north and rural Teesside to the west. There are excellent communication links with a principal station on the East Coast rail mainline, the A1 (M) Motorway and Teesside International Airport.

24. Most of the population are long term residents, however an estimated 7.8% of the population moves to or leaves Darlington every year. Darlington also has a higher than average population of children and older people compared to the North East and England. Self-defined ethnicity in Darlington was 6.2% in the 2011 census compared to 20.3% for England with the largest ethnic minority group comprising of Gypsy, Roma and Traveller communities.

25. Most businesses are now in the public, health and education sector or financial and business services. The town centre is of sub-regional importance for shopping and services and the town is also an important employment centre. Generally Darlington is an economy of small, owner-managed businesses that co-exist with branch factories, offices and shops. It has performed relatively well in recent years, however there has been a closure of several retail operators in high profile locations.

26. The late night economy of the Borough is principally centred around the town centre where a number of entertainment premises, pubs and takeaway establishments are situated. Darlington's plan is to merge the day and night time economy with an evening economy. These activities will support the cultural diversity of the Borough and contribute to its overall economy. Darlington has a Purple Flag status, which is an accreditation similar to the Green Flag award for parks and the Blue Flag for beaches. It allows members of the public to quickly identify town & city centres that offer an entertaining, diverse, safe and enjoyable night out.

27. The Council recognises and welcomes the contribution that the Private Hire and Hackney Carriage trade make to the transport and tourism industry in the area.

### Partnership working

## Appendix 2

28. The Council will work in partnership with the following agencies and individuals to promote the policy objectives:

Local Hackney Carriage and Private Hire Trade; Durham Constabulary; Local Transport Authorities; Planning Authority; Local residents; Disability groups; Tees Valley Combined Authority; North East Strategic Licensing Group (NESLG); Service users; Driver and Vehicle Standards Agency (DVSA); HM Revenue and Customs; Department for Work and Pensions (DWP); Home Office Immigration Enforcement; Tees Valley Licensing Group

### **Related Policies and Strategies**

29. This Policy will be integrated with local planning, transport, tourism, equality and cultural strategies, and other plans introduced for the management of the Borough for the evening and night-time economies.

30. The Council, as a member of the Tees Valley Licensing Group will work with the other council representatives to seek harmonisation of policies and conditions, where applicable, across the Tees Valley District. The Council will also work in partnership with other agencies including those referred to in paragraph 29 above

### **Equality**

31. The Council is committed to ensuring equality in employment and service delivery. To achieve this standard the Council is aware of its duties under the Equality Act 2010 and The Human Rights Act 1998.

### **Duties and Obligations under the Equality Act 2010**

32. The Equality Act 2010 consolidates the legislation previously set out in the Disability Discrimination Act 1995 and the Disability Discrimination Act 2005 to increase access to transport services and infrastructure by disabled people. Those who provide transport services by way of Hackney Carriage and Private Hire vehicles are advised to contact the

## Appendix 2

Equality and Human Rights Commission for further information and advice on avoiding discrimination.

33. It is a requirement of a vehicle licence that wheelchair accessible vehicles have the appropriate equipment so as to transport passengers in wheelchairs at all times. Any vehicle proprietor found in breach of this **may face formal action**.

34. Licensed drivers are under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without any additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply for an exemption from the duty on medical grounds. A medical certificate must be provided, at the drivers expense, from the drivers own GP stating the details of their medical condition. A register will be kept of those drivers exempted. Persons who breach duties may be guilty of a criminal offence. **In addition to any criminal sanction, the driver would be liable to disciplinary procedures that may include licence suspension or revocation.**

35. Further information is available from the Equality and Human Rights Commission at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

### **Duties and Obligations under the Human Rights Act 1998**

36. Article 1 of Protocol 1 of the European Convention of Human Rights confers on Individuals (and companies) the Right to Peaceful Enjoyment of their possessions and the Protection of Property. Once granted, a Licence is a possession and no one can be deprived of his property or have controls put on his property except where the action is permitted by law and justifiable in the public or general interest.

37. When considering matters relating to the grant, revocation, renewal or refusal of licences and the placing of conditions on licences, the Council must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. In addition consideration must be given to whether the interference is proportionate.

### **Crime and Disorder Act 1998 Section 17**

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38. Section 17 of the Crime and Disorder Act 1998, places a duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

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### **Drivers**

### **Licences**

39. The Council issues licences for Private Hire and Hackney Carriage drivers. In addition drivers may hold both licences and these are referred to as Dual or Combined licences.

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40. Licences are issued subject to proof of eligibility – driving licence, driving assessment, knowledge/locality test, Child Sexual Exploitation (CSE) awareness certificate, criminal records check, **right to work** and medical assessment.

41. The statutory and practical criteria and qualifications for each licence are broadly identical and therefore this chapter will apply to all driver licences. However where differences exist between the licensing regimes reference will be made to it in this policy.

42. At all times, the Council's legitimate aim is to protect members of the public who are using vehicles and drivers licensed by the Council and thus if the documentation produced does not satisfy the Council then the application will be refused.

### Driving Experience

43. An applicant for the grant of a hackney carriage or private hire driver licence must have held a full DVLA driving licence for a period of 12 months before an application for the grant of a driver's licence will be accepted. This is a legal requirement under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976. **Full driving licences issued by EEA states will also count towards this qualification requirement and equal recognition will also be given to Northern Ireland driving licences. During the transition period, the EU and the UK will hold negotiations on their future relationship. This may include making agreements on the validity of EU driving licences in the UK. The situation will become clearer in the course of 2020. (Awaiting government clarification following withdrawal from EU)**

44. In addition applicants are required to have passed an approved driving assessment and produce the original copy of the pass certificate. Drivers can also carry out an enhanced test for wheelchair accessible vehicles.

### DVLA Driving Licences

45. The DVLA no longer issues a driving licence counterpart (D740). In order to be satisfied that an applicant has a current DVLA driving licence and also to be aware of any penalty points on the licence, **the Council will require access to the DVLA on line checking system to establish driving entitlement and driving history.**

## Appendix 2

46. The DVLA requires the holder of the licence to give permission for access to driver records by providing the Council with a unique access code provided by the DVLA. Therefore all drivers wishing to be licensed as a hackney carriage or private hire driver must either provide written consent or present to the Council an acceptable unique access code to allow their DVLA driving licence to be checked prior to a licence being approved.

47. Any driver holding an EEA/EU driving licence will be required to exchange this licence for a photo card licence issued by the DVLA prior to the grant or renewal of Hackney Carriage or Private Hire driver licence.

48. The Council will continue to follow licence requirements issued by the government

49. A driver with 9 penalty points or more on their DVLA drivers licence will be referred to the Licensing Committee for consideration as to whether they are, or remain, a safe and suitable person to hold a licence.

### Right to Work

50. The prevention of illegal working in the UK is governed by legislation that may change from time to time. The Council will undertake the necessary checks required to comply with such legislation. The Government's Department of Transport (DfT) Best Practice Guidance in relation to hackney carriage and private hire provides for licensing authorities to check on an applicant's right to work in the UK before granting a licence.

51. All applicants for a private hire operator and/or a private hire and hackney carriage driver licence will be required to prove that they have a right to work in the UK before being considered for a licence. In doing so, the Council may seek information regarding the immigration status of an individual from the Home Office.

52. For British applicants without a current British passport, a full birth certificate which includes the name(s) of at least one of the holder's parents and proof of National Insurance number is required. A National Insurance Card is not an acceptable form of ID

53. Applicants from Switzerland or one of the EEA countries have the right to work in the UK providing they can provide evidence of their right to work in the UK.



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54. Applicants who are non-EU nationals will have to provide proof of the right to work in the UK in accordance with current Home Office guidance on preventing illegal working. Usually a Biometric Residence Permit and a valid passport should be provided before any application can be accepted.

55. Licenses may be time limited to coincide with an applicants limited rights to stay in the UK

56. A licence will not be granted until an applicant is able to prove they have a right to work in the UK. Checks will be made at each renewal process. All documentation will be copied and kept on the applicants personal file.

### Language Proficiency

57. **If there is any doubt as to an applicant's ability to communicate in English (spoken or written), they shall be required to undertake and pass a Council approved English assessment at their own cost.**

### Applicants Who Have Spent Time Abroad

58. If an applicant is newly resident in the UK they must still apply for an enhanced DBS check regardless of the period of time they have spent in the UK.

59. Where an applicant has spent 3 months or more living abroad or has not lived in the UK for a continuous six year period at the time of the application, an enhanced DBS disclosure in itself will usually be insufficient to satisfy the Council that the applicant is a fit and proper person. This is because the DBS does not routinely provide criminal record information from non UK countries. These applicants will be required to provide a Certificate of Good Conduct or an equivalent document, translated into English by a recognised, impartial body, from each country where they have been living

60. A Certificate of Good Conduct or equivalent document is an extract from the judicial record or administrative authority in the relevant country testifying to good conduct and/or

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to any criminal convictions recorded against the individual. The Council will take advice from the DBS in identifying the appropriate authority where available.

61. The Council may approach the relevant Embassy or appropriate body directly to verify documents provided. Any costs involved must be met by the applicant.

62. The applicant is advised to submit additional information with the application e.g. verifiable references from former employers and persons in positions of trust, which may demonstrate that they are a fit and proper person. The Council may require the applicant to submit additional information.

63. Existing licensed drivers must notify the Council in writing when they intend to leave the country for an extended period of 3 months or more. They must also notify the Council on their return and complete a statutory declaration on the form provided by the Council.

64. Details of where applicants can access information concerning Certificates of Good Conduct is contained in Appendix 8

### **Disclosure and Barring Service and Criminal Records**

65. The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.

66. The DBS are responsible for:

- processing requests for criminal records checks
- deciding whether it is appropriate for a person to be placed on or removed from a barred list
- placing or removing people from the DBS children's barred list and adults' barred list for England, Wales and Northern Ireland

Any person who is on the **DBS Barred List** will be deemed to be **not** a fit and proper person to hold a private hire and/or hackney carriage driver licence.

67. A criminal record check on a driver is an important safety measure. Enhanced Disclosure through the DBS is required (applied for through the Council's Licensing Office).

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Enhanced disclosures include details of spent and unspent convictions, police cautions and Police intelligence.

68. The Rehabilitation of Offenders Act 1974 does not apply to applicants for hackney carriage or private hire driver licences by virtue of the Rehabilitation of Offenders Act 1974 (Exception) Order 1977 and therefore applicants are required to disclose all convictions, including those that would normally be regarded as spent.

69. Before an initial application for a driver's licence will be considered, the applicant must apply for an Enhanced Disclosure of criminal convictions through the Council. The application will not be determined until the results are received. DBS checks are not portable and only DBS checks applied for through Darlington Council will be accepted unless an applicant is appropriately registered with the **Disclosure & Barring Update Service**. **It is for the applicant to ensure that the DBS are informed of any changes to banking details**. In addition DBS disclosures will only be acceptable up to one month from the date of issue.

70. The Council is a Body registered with the DBS and can apply for the Disclosure at the applicant's request subject to the appropriate fee. Guidance notes (including proof of identity requirements) are available from the Licensing Office. The Council is bound by rules of confidentiality.

71. The disclosure report will be sent to the applicant's home address. The Council will NOT receive a copy of the report and the applicant must produce the entire original copy of the DBS certificate to the Licensing Office. **Photocopies or part disclosures will not be accepted**. If the Council receives an e-mail to say the report is clear, the application can be processed.

72. Once a copy has been received it will be referred to an Authorised Officer for checking and if satisfactory, it will be returned immediately. If an officer is not available, the DBS disclosure will be placed within the driver's folder and stored in a secure location until an Authorised Officer is able to check it. Please note that copies of disclosures are not stored on drivers' files at any time unless the driver authorises the storage in lieu of the criminal conviction declaration.

73. Any applicant for a new licence or renewal of licence is required to provide details of all criminal, motoring and licensing convictions including fixed penalties, spent convictions, speed awareness courses and cautions. It is an offence to knowingly or recklessly make a

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false statement or to omit information required by the Council (s.57 Local Government (Miscellaneous Provisions) Act 1976).

74. Applicants for renewal of a driver's licence are required to have an enhanced disclosure criminal record check from the DBS every year through the update service.

### **DBS Update Service**

75. All licence holders must also subscribe to the Disclosure and Barring Service Online Update Service throughout the duration of their licence. Any costs associated with maintaining this subscription must be met by the licence holder. The licence holder must give consent for the Council to undertake checks of their DBS status should the Council consider it necessary to do so. The Council will use the update service to monitor the criminal record of licence holders. The update service can be used when a licence is renewed – if there are no changes recorded on the DBS certificate then a full DBS check will not be required. In all other cases a full Enhanced DBS check will be required before a licence is renewed. Failure to maintain subscription to the update service will result in the suspension of the driver's licence until a new disclosure is provided. Existing licence holders who have not already subscribed to the updating service will be required to do so when their next DBS disclosure application is submitted. Further details and guidance can be found at: [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service)

76. If a driver does not renew their licence, a new disclosure will be required at the time of any subsequent application unless the driver has continued to subscribe to the update service

### **Benefits to drivers**

- Saves time and money
- No more DBS application forms to fill in. One DBS Certificate is all that is required.
- DBS Certificate can be taken from role to role within the same workforce.
- Personal control of DBS Certificate.

### **Benefits to employer or Council**

- Instant online checks of DBS Certificates.

## Appendix 2

- Less bureaucracy.
- Saves time and money.
- Enhanced safeguarding processes help reduce risks.

### Relevance of Convictions, Cautions and Conduct

77. In assessing whether the applicant is a fit and proper person to hold a licence, the Council will consider each case on its own merits and will have regard to the adopted guidelines on the relevance of convictions a copy of which is attached at Appendix 7

78. Darlington Borough Council provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) driver's licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Council – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

79. Where a hackney carriage/ PHV driver's licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3

80. All applications for a new driver's licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application

81. Information will be retained on NR3 for a period of 25 years

### Driver Knowledge/Locality Test

## Appendix 2

82. In order to determine the fitness of a person to hold a licence, all applicants are required to sit and pass a test on their knowledge of the local geography, driver conduct / conditions, Highway Code, licensing legislation and awareness of Child Sexual Exploitation/Safeguarding. Tests for hackney carriage drivers include a more detailed assessment of local geography, location of hackney carriage stands and knowledge of tariffs and charges. A driver licence will not be issued without the applicant first passing the knowledge test.

83. The cost for one knowledge test is currently included in the licence fee. If an applicant fails to pass the test, a further fee will be charged for every subsequent test. Such fees are to be paid prior to the test date being booked. Bookings for a test appointment will not be accepted without the payment of the fee.

84. Should an applicant fail to pass the knowledge test within six attempts, application will be refused. This should provide the applicant with sufficient opportunities to develop the necessary knowledge required in order to successfully undertake the knowledge test.

85. Applicants should note that where an application is pending in excess of 6 months the applicant will be obliged to provide a new DBS Certificate via the update service and a new Medical Assessment or a letter from the GP who carried out the original medical confirming that there has been no change in the medical fitness of the applicant will be required.

86. If an applicant cancels a test with less than two working days' notice, fails to attend a test or is more than 10 minutes late for the test without a reasonable excuse, a further fee shall be required prior to a re-test being booked.

### **Medical Assessment**

87. Under s.57 of the Local Government (Miscellaneous Provisions) Act 1976 the Council may require an applicant for a hackney carriage or private hire drivers licence to produce a certificate signed by a registered medical practitioner to the effect that s/he is physically fit to be a driver of such a vehicle. The Council requires a medical certificate upon an initial application for a licence. In addition to such a certificate the Council may require an applicant to submit to examination by a registered medical practitioner selected by the Council as to his/her fitness to be a driver of a hackney carriage or private hire vehicle.

## Appendix 2

88. In line with DVLA recommendations, the Council applies the DVLA Group 2 driver standard for medical fitness for hackney carriage and private hire drivers. This is a higher medical standard than that required for drivers of other motor vehicles due to the length of time the driver may spend at the wheel and the responsibility they have for the safety of their passengers and the public. In addition, drivers may have to assist disabled passengers and handle luggage.

89. Upon an initial application for a driver's licence the applicant shall produce a completed Medical Certificate provided by the Council. This must be completed by the applicant's own GP or a medical practitioner with access to the applicant's medical history.

90. The applicant is responsible for paying the fee for the examination. If necessary the GP may return the completed form direct to the Licensing Office. The medical certificate will be valid for a period of 6 months after which either a new medical form or a letter from the GP who carried out the original medical confirming that there has been no change in the medical fitness of the applicant will be required. Once the medical is 12 months old a letter will not be accepted and a new medical will be required.

91. The medical practitioner must confirm that:

- they have examined the applicant;
- the applicant is registered with the practice; and/or they have had full and complete access to the applicant's medical records;
- The medical examination was carried out to the Group II standard;
- (S)he considers the applicant to be fit to act as the driver of a hackney carriage or private hire vehicle in accordance with this standard.

92. Applicants aged over 45 years must provide evidence of their medical fitness to hold a licence every five years and once they reach the age of 65 years an annual medical will be required. **For drivers who have chosen a three-year licence, they must provide a medical certificate on the same basis as that detailed above and, where this falls mid-licence, the driver must provide a new medical certificate on their 50th, 55th, 60th and 65th birthday.**

93. If a driver has a medical condition that requires notification to the DVLA e.g. sleep apnoea they must also notify the Council in writing at the same time that DVLA is notified.

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94. In addition to the above requirements where a driver suffers from a condition that requires monitoring but would not prevent him/her from driving (s)he is required to provide written confirmation from his GP or consultant, as recommended by the DVLA standards, each year that s/he remains fit to carry out the duties of a driver and/or may be required to submit an annual medical.

95. If the Licensing Authority is not satisfied as to the medical fitness of an applicant, a hackney carriage or private hire drivers licence will not be granted. If the Licensing Authority is not satisfied as to the medical fitness of a licensed hackney carriage or private hire driver there will be reasonable cause to suspend, revoke or refuse to renew the licence under s.61 Local Government (Miscellaneous Provisions) Act 1976. This suspension may also be undertaken in accordance with s.52 of the Road Safety Act 2006 on the grounds of public safety. This means that the suspension takes immediate effect and although the driver may appeal they are unable to drive pending the appeal.

### Application Procedure

96. An application for a driver's licence is to be made prior to the applicant taking the required knowledge test. **(Part application may be accepted to begin the process provided it contains a DBS application)**. The following documents with relevant fees are to be submitted in person for a new application :

- A completed Application form.
- A Group II Medical Assessment.
- A DBS application on-line form with appropriate identity documents (or alternative).
- A CSE Awareness Training Certificate
- Taxi Driver Test "Pass Certificate" and/or the Hackney Wheelchair Enhanced Certificate or Wheelchair Exercise Certificate when applicable.
- A Valid DVLA Driving Licensing (old style pre-1998 paper licence) or DVLA Driver Photo-Card driving licence where applicable. Photo cards must show a valid date for the entire period of the imminent licence. Expired licences will not be accepted.
- Right to work
- DVLA access code to review licence

Drivers who hold other European driving licences must apply to the DVLA to exchange their EU driving licence to a UK photo-card licence.

All documents must correspond in respect of the full name and address of the applicant or the application will be rejected. Any incorrectly completed forms will not be accepted.



## Appendix 2

97. The application will not be determined until the knowledge test has been passed and DBS check is received. Where it is considered that the application will be determined by the Licensing Committee the knowledge test can be deferred pending that decision.

98. If the application is withdrawn or refused the fee will be refundable minus the current admin charge. Where an application is refused and subject to appeal, further charges will be incurred and no refund will be given.

99. It is expected that the entire application process shall be fully completed within **3 calendar months from the date of the initial application and with the introduction of an on-line application system the normal processing time should be much shorter than 3 months. This will be subject to the production of relevant documentation and availability of a Licensing Committee where applicable.** Where an application is pending in excess of this period, the applicant will be obliged to provide a new DBS Certificate and a new Medical Assessment or a letter from the GP who carried out the original medical confirming that there has been no change in the medical fitness of the applicant will be required.

100. The following documents are to be submitted in person or by post. With the introduction of an on-line licensing application process will no longer accept applications in person or by post. The relevant fee for an application will only be accepted electronically when an on-line system has been introduced.

- A completed application renewal form.
- A Group II Medical Assessment (if required) or other specified medical documentation.
- A valid DVLA Driving Licence (Old style paper licence or photo-card driving licence where applicable.) Photo cards must show a valid date for the entire period of the imminent licence.
- DVLA access code for licence renewal
- DBS reference number for the update service

101. Holders of existing driver's licences must apply to renew their licence in the second part of the month preceding the expiry date. Ideally the application should be submitted at least 7 working days prior to the expiry of the previous licence to allow for an appointment and the production of the new licence, as the legislation does not allow for continuity of licence. Applications received more than a day after the expiry date will be dealt with as a new application (i.e. expiry 31 January – application will be accepted for renewal no later than 01 February)

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102. Renewal applications will be processed and issued pending any required enhanced DBS check, DVLA and medical requirements unless the Council has reasonable grounds for concern. In this situation the renewal application will not be determined until or unless these concerns have been alleviated.

103. If details of new convictions or charges are received during the renewal process the application to renew will be dealt with on its merits according to this Policy.

104. If details of any convictions or cautions are received through the DBS check process and a declaration has been signed stating that there are no new convictions or cautions this will be treated very seriously and the appropriate action taken.

105. The Licensing Manager and Assistant Licensing Manager may at any time refer a decision to grant or renew a licence to the Council's Licensing Committee.

106. All drivers will be issued with a badge detailing their licence number, expiry date and a photograph of the licence holder. The badge must be prominently worn at all times when the driver is working.

107. Lost or damaged badges must be reported on the next working day to the Licensing Office. A fee will be charged for a replacement badge.

### **Term of Licence**

108. New applicants and applicants for renewal of licence may apply for a 3 year licence in those cases where there are no any issues concerning the application

109. In addition, all 3 year licence holders shall be required to have valid DVLA licences, medicals and criminal record checks throughout the 3 year period.

## Appendix 2

110. Applicants may choose to bring forward such checks to align them to a 3 year licence, however if any of these expire within the 3 year period a pro rata licence (with pro rata fee) will be considered.

111. In cases where applicants/renewal applicants are referred to the Council's Taxi Licensing Sub Committee in respect of matters of concern e.g. criminal or medical issues or serious complaints, it is proposed that a maximum one year licence will normally be granted and repeated for the first 3 years.

112. If there are no further concerns after that time period the opportunity to apply for a 3 year licence shall be offered.

113. Licence holders that are subject to specific annual checks e.g. an annual medical will be limited to an annual licence.

114. Licences which exceed one year, will be subject to a higher licence fee.

115. Applicants can chose to apply for a one year licence

### **Conditions of Licence**

116. The legislation pertinent to licensed drivers is detailed at Appendix 1 and the Council's policies in respect of the licensing of drivers are detailed at Appendix 2. The Council is empowered to attach such conditions to a private hire driver's licence as are considered reasonably necessary. The conditions set out at Appendix 3 are considered reasonably necessary and as such may be legally imposed in respect of private hire drivers.

117. The legislation does not permit the Council to attach conditions to a hackney carriage driver's licence. Hackney Carriage Drivers will however be subject to the Council's byelaws, a copy of which will be provided to them as part of their licence. The Byelaws are detailed at Appendix 4.

## Appendix 2

### **Code of Good Conduct**

118. This serves to promote the Council's licensing objectives in respect of hackney carriage and private hire licensing. The Code of Good Conduct will be taken into consideration in disciplinary matters. All licence holders will be provided with a copy of the Code and the driver's file will be updated to confirm receipt. The Code of Conduct is attached at Appendix 5 to this policy.

### **Driver's Dress Code**

119. A dress code serves to enhance the professional image of the hackney carriage and private hire trade, and promotes the concept that drivers of licensed vehicles are vocational drivers. In order to raise the profile of the licensed trade, drivers should operate, at all times in a professional manner and conform to a minimum standard of dress. The Council's Dress Code for licensed drivers is detailed at Appendix 6. Failure to comply with the Dress Code may be taken into consideration in disciplinary matters.

### **Driver Training**

120. At present there is no requirement for new applicants or existing drivers to undergo any form of formal training. In recent years the following formal training packages have been developed and delivered locally:

- The BTEC Award – Transporting Passengers by Taxi and Private Hire Trade
- NVQ Level 2 in Road Passenger Vehicle Driving

The Awarding Bodies have indicated that the best option is for candidates to undertake both courses as the BTEC training underpins the NVQ assessment and it is usual for them to be run side by side.

121. Due to the high cost of these awards, the Council is not insisting on new applicants or existing drivers to undertake one of the above training packages.

### **Disability Awareness Training**

## Appendix 2

122. Tees Valley Licensing Group (TVLG) is collaborating with Darlington Association for Disability (DAD) to establish on-line disability awareness training for drivers. Once established, new applicants and existing drivers will be required complete this training. It is also recommended that private hire controller staff complete this training so that they have an appreciation of disability issues raised by customers.

### **Child Sexual Exploitation Awareness Training**

123. Sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them sexual activities. Violence, coercion and intimidation are commonly involved in exploitative relationships.

124. Darlington Borough Council Licensing Section and Darlington Safeguarding Partnership is tackling child sexual exploitation and trafficking, by working together with Durham Constabulary. By key agencies working together and sharing information, we can prevent sexual exploitation, protect children and young people and prosecute perpetrators of sexual exploitation.

125. Safeguarding children and young people is everyone's business. Sharing information with Durham Constabulary helps to protect young people from harm. Taxi drivers are key in identifying victims of sexual exploitation and may come into contact with children and young people who are transported in taxis.

SAY SOMETHING IF YOU SEE SOMETHING

126. If you are concerned about the safety of someone and you believe there is an immediate risk of harm then contact Durham Constabulary on 999. In all other circumstances, you can call the non-emergency number which is 101.

### **Taxi Drivers Requirement to Undertake Safeguarding Vulnerable Passenger Awareness Training**

## Appendix 2

127. Applicants for private hire, hackney carriage driver licences and private hire operators will be required to have undertaken Child Sexual Exploitation/Vulnerable Adult awareness training and will be required to produce a certificate as evidence of such training as part of their application.

128. The training will be an online package where at stages during the programme there will be questions to answer. If the candidate achieves the required pass mark, a certificate can be printed and provided to this licensing authority at the time of application and renewal of driver licence. Questions in relation to this will be included in the Knowledge Test.

### Changes to Licence Details

129. Drivers shall notify the Council in writing (electronically will be accepted) within 7 days of any change to their home address or any change to their name that appears on their licence.

### Voluntary Return of Licence

130. Although there are no statutory provisions within the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 which allow for the voluntary return of a driver's licence, the Council recognises that there are many legitimate reasons why a driver may wish to return their licence. This could include, for example, changes in their medical condition, personal circumstances or the driver may simply wish to pursue another career path. In such circumstances it is likely that the Council will accept the return of the driver's licence and arrange for a pro-rata refund of the licence fee, minus any administration charges. A voluntary return of licence will not be considered whilst an active investigation is being carried out.

131. Any request to return a driver's licence shall be made in writing and the Council will consider each case on its merits.

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## **Vehicles – Hackney Carriage and Private Hire**

### **Specifications**

132. The Department for Transport Best Practice Guidance recommends that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible. They are, however, encouraged to make use of the “type approval” rules within any specifications they determine.

133. All vehicles, therefore, shall have an appropriate ‘type approval’ which is either:

## Appendix 2

- a) European Whole Vehicle Type approve
- b) British Individual Type Approval

134. Vehicle type approval is the confirmation that production samples of a design will meet specified technical, safety and performance standards. The specification of the vehicle is recorded and only that specification is approved.

135. All vehicles subject to new applications for hackney carriage and private hire vehicle licences, shall have M1 European Whole Vehicle Type Approval (EWVTA).

136. EWVTA is based around EC Directives and provides for the approval of whole vehicles which is accepted throughout the EU without the need for further testing until standards or designs change. Category M1 covers vehicles designed and constructed for the carriage of passengers, comprising no more than 8 seats in addition to the driver's seat

137. Most large volume production vehicles produced in the UK and EU states after 1987 will satisfy British and/or European Whole Type Approval. Specialist vehicles or any vehicle that has been structurally modified, converted or imported from a non-EU State since its original manufacture will require separate SVA and/or Department for Transport approval and such documentation must be submitted with an application.

138. Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles.

139. Vehicles may also be licensed to carry fewer passengers subject to compliance with specifications relating to passenger comfort and vehicle conditions.

140. Applications in respect of novelty vehicles and stretched limousines will be determined on their individual merits but should as a minimum have either:

- British National Type approval: or
- British Single Vehicle Approval (SVA) (before 29 April 2009) or;
- Individual Vehicle Approval (from 29 April 2009)



## Appendix 2

141. Vehicles that have at any time been declared an 'insurance write off' in category A, B, and S and/or have their V5 document endorsed as being 'accident damaged' will not be licensed. Category N (non-structural damage) may be considered, subject to a satisfactory engineers report and mechanical examination. If a licensed vehicle is involved in an accident which results in the vehicle being declared an insurance write off (other than category N) then the licence will be revoked and the no further application to licence the vehicle will be permitted.

142. Appendix 9 sets out the legislation pertinent to vehicles and Appendix 10 sets out the Council's policies in respect of licensed vehicles.

### Hackney Carriage Vehicles

143. A hackney carriage vehicle is a wheeled vehicle used in standing or plying for hire that is required to have a numbered plate fixed upon it. The legal definition of a hackney carriage is contained in the Town Police Clauses Act 1847.

144. A hackney carriage can ply for hire and also wait at a hackney carriage stand.

145. Conditions can be imposed upon the grant of a hackney carriage proprietor's licence and the Council has Byelaws to control the conduct of both the proprietors and the drivers. These Byelaws are attached at Appendix 14

146. The Council has imposed conditions relating to the specifications of the vehicle and other matters. These are attached at Appendix 15

147. In addition all hackney carriages must be:

- a) Red in colour (Pantone 485, which is the shade of red used by Royal Mail)
- b) Maintained to the standard prescribed by the Council.
- c) Fitted with an approved roof sign bearing the word "TAXI".
- d) Display the Council's licence plates, which must be securely attached to the exterior front and rear of the vehicle as prescribed by a condition of the Council.
- e) Fitted with a meter of an approved type with the fares charged as determined by the Council.

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- f) Meters, after being checked for accuracy, must be sealed by an agent approved by the Council.
- g) Display decals issued by the Council attached centrally to both front doors of the vehicle.

### **Booking Records for Hackney Carriages**

148. There has been an increasing practice of hackney carriages being used for private hire purposes, i.e. pre-bookings of vehicles. Hackney carriage vehicle conditions require that booking records are kept of all such pre-arranged bookings. The condition specifies the type of information to be kept and the retention period for such information. Full details can be found in Appendix 15

### **Meters**

149. It is a requirement for all hackney carriages to be fitted with a meter to calculate the journey fare.

150. Meters must comply with the Measuring Instruments (Taximeters) Regulations 2006 and must be of the calendar control type which is locked and sealed by an approved manufacturer/suppliers and/or installer so that tariff rates change automatically and cannot be changed or tampered with manually by the driver. This specification also applies to private hire vehicles where a meter is fitted.

### **Private Hire Vehicles**

151. A private hire vehicle is a motor vehicle constructed or adapted to seat up to 8 passengers (plus the driver) which is provided for hire with the services of a driver for the purpose of carrying passengers. Every hiring for a private hire vehicle must be pre-booked through a licensed private hire operator. Any vehicle used as a private hire vehicle must be licensed under the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

152. Before granting a vehicle licence the Council must be satisfied that the vehicle meets the following criteria:

## Appendix 2

- Is suitable in type, size and design for use as a private hire vehicle.
- Is not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage.
- Is in a suitable mechanical condition.
- Is safe.
- Is comfortable.

153. Conditions may be attached to the grant of a licence as are considered reasonably necessary.

154. In addition to the legislative requirements, the Council has imposed conditions relating to the specifications of the vehicle and other matters. These are attached at Appendix 11.

155. In addition all private hire vehicles must:

- Not be red (Pantone 485) or any shade of red in colour.
- Be exceptionally well maintained to the standard prescribed by the Council.
- Not be fitted with a roof sign of any description.
- If the vehicle is fitted with a meter, it must be properly tested and sealed.
- Display the Council's licence plates, which must be securely attached to the exterior front and rear of the vehicle as prescribed by a condition of the Council.

156. General conditions are attached to private hire vehicle licences relating to the identification of the vehicle and safety issues. These are attached at Appendix 11

### **Novelty Vehicles and Stretched Limousines**

157. The Council recognises the role novelty vehicles (e.g. converted fire engines) and stretched limousines play in the private hire trade to meet a public demand and has developed a separate licensing regime for such vehicles. Please see Appendix 12. (NB this includes any additional conditions in respect of such vehicles, relating to driver uniform, material change and exemption from window tint). Such vehicles will only be licensed as private hire vehicles.

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158. It is not appropriate for such vehicles to be used for standard hiring (see section on Exempted Private Hire Vehicles) and licensed operators shall only send such a vehicle when it has been specifically requested by the hirer.

159. Most novelty vehicles, in particular stretched limousines are imported for commercial purposes and are required to have undertaken an Individual type approval (ITA) test. This ensures that the vehicles meet modern safety standards and environmental standards before being used on public roads.

160. Stretched limousines shall also have Qualified Vehicle Modifier or Cadillac Coach Builder approval where appropriate.

161. There shall be no sale or provision of alcohol (or provision of regulated entertainment) from any vehicle without a current premises licence under the Licensing Act 2003 being in force and if any of the occupants, (save for the driver and accompanying responsible adult), are under the age of 18 then there shall be no alcohol at all in the vehicle for consumption or otherwise.

162. Where the passengers in the vehicle consist of children and young persons they must be accompanied by a responsible adult, (other than the driver) who is over the age of 18 and is not connected to the driver.

163. There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals. Similarly a vehicle does not need to be licensed while it is being used wholly in connection with a wedding.

### **Exemptions for Private Hire Vehicles**

164. Private hire vehicles used for executive hire or novelty vehicles or stretched limousines will be permitted to apply for an exemption under Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 from the requirement to display licence plates.

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165. Any proprietor of a licensed private hire vehicle wishing to apply for this exemption should be engaged substantially (i.e. more than 80% of hiring's) in the provision of a 'chauffeur style' executive service or the vehicle operated should be an executive type vehicle, stretched limousine or other novelty vehicle as agreed by the Council.

166. Any proprietor of a licensed private hire vehicle wishing to apply for this exemption must satisfy the Council that:

- the specification of the vehicle constitutes an executive vehicle and
- the overall level of service provision constitutes an executive hire, or
- the overall specification of the vehicle constitutes a novelty vehicle

167. The submission of contract specifications and/or evidence of all contract and account customers, including usage will be required to support any application for an exemption. Applications for exemptions are to be made in writing with a proposed business case.

168. If an Exemption is granted, a Notice will be issued to the proprietor. The Notice shall be valid for a period not exceeding one year and shall expire alongside the private hire vehicle licence.

169. A rear licence plate will also be issued and this shall be carried in the boot of the vehicle at all times whilst the vehicle is being used in accordance with the exemption notice.

170. In addition, a discreet sign will be issued which must be displayed in or on the front windscreen at all times whilst the vehicle is being used in accordance with the exemption notice.

171. The Exemption Notice, the rear licence plate and the front sign shall be produced to an authorised officer or police officer when requested.

172. Whilst the vehicle is being used in accordance with the Notice, the driver of the vehicle shall be required to carry his private hire driver badge in the vehicle but shall be exempt from wearing it.

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173. No advertisements of any kind shall be displayed in, on or from the vehicle at any time whilst the Exemption Notice is in force. Company logos shall not be displayed on any part of the vehicle.

174. Roof signs shall not be permitted and the overall appearance of the vehicle both externally and internally shall be that of an unlicensed private vehicle at all times.

175. The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard conditions and any additional conditions. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice. The Policy for and Conditions for Novelty Vehicles and Stretched Limousines are attached at Appendix 12 and Exempted Licence Conditions in relation to Executive Vehicles is attached at Appendix 13 to this Policy

176. The private hire operator, proprietor and driver operating under the provisions of an executive Exemption Notice, remain subject to the requirements of the Local Government (Miscellaneous Provisions) Act 1976 with regard to the respective licences and the conditions attached in each case.

### Age Restriction

177. The Council has age restriction policies in place requiring the vehicle to be under 4 years of age when first presented for licensing. Vehicle licences will only be renewed up to 8 years old (except for purpose built wheelchair accessible vehicles such as London Cabs which may be licensed up to 10 years of age.)

178. From the 1<sup>st</sup> April 2023, all licensed vehicles must be aged eight years or under

179. Vehicles will only normally be licensed until the 8<sup>th</sup> anniversary of registration. Where a vehicle will reach its 8<sup>th</sup> anniversary during the period of a licence a reduced fee will be calculated as follows: the current administration fee plus the difference between the remaining annual licence fee, divided by 12 months and then multiplied by the number of months from the start of the licence period to the 8<sup>th</sup> anniversary (part months will be charged as full months.)

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180. The initial age of the vehicle will be extended from under **4 years to less than 6 years** in respect of purpose built vehicles only i.e. London cabs and similar vehicles to encourage more purpose built wheelchair accessible vehicles in the fleet.

181. Age restrictions shall not apply where a licensed vehicle is converted from one type of licensed vehicle to another, provided the vehicle licence in respect of the initial vehicle licence is surrendered. The vehicle must be altered so as to comply fully with the requirements of the prospective licence in respect of the fitness, suitability, colour, size and type of vehicle, and any obligatory fixtures and fittings.

### **Accessibility**

182. The Council will licence both a purpose built wheelchair accessible vehicle and a vehicle that is suitable in size and design, and has been converted or adapted after the date of first registration to enable the carriage of a **Reference Wheelchair as defined in Schedule 1, Part 2 of The Public Service Vehicles Accessibility Regulations 2000 (see Appendix 23 for dimensions)**. This is provided that the conversion is carried out by an approved vehicle convertor such as the Wheelchair Accessible Vehicle Converters' Association and a certificate of fitting provided by the convertor is supplied as an original document.

### **Incentives**

183. A licensing incentive is given to all purpose built, fully accessible vehicles by way of a 25% reduction in the annual licence fee

184. A similar reduction will be given to all approved vehicles that have been adapted or converted to carry wheelchairs on production of written evidence that each driver has undertaken training in handling passengers with disabilities which the Council may from time to time approve.

185. Where a vehicle licence attracts an incentive there shall be an expectation that the vehicle shall be made available for a reasonable period each day for the carriage of disabled passengers unless the vehicle is mechanically unfit for use, at which time the vehicle licence will be suspended

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186. An incentive may be withdrawn at any time should the Council receive complaints that the vehicle is not available for the use of passengers with disabilities for which the incentive was given.

### Limitation of Numbers

187. The present provisions on restriction of numbers for hackney carriages are set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed taxis “if, but only if, the local Authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet”.

188. Any Local Authority that does restrict numbers is required to justify their policy every 3 years, in writing, to the Department for Transport. In addition this justification must feature in the 5 yearly Local Transport Plan.

189. Where a limitation on numbers is in effect, any new application for a hackney carriage vehicle licence which would be in excess of that number can be refused if the Council is satisfied that there is no significant unmet demand for taxi services within the area. An applicant whose licence is refused has a right of appeal to the Crown Court.

190. To establish whether or not there is unmet demand requires a survey to be conducted. The average cost of such survey would be met from the taxi licensing budget.

191. This issue has been raised by the Trade on many occasions. The Council, in line with the DfT Best Practice Guidance does not intend placing a limit on the number of licences it will issue, relying instead on market forces to dictate the level of licence applications. **This position will be kept under review as the Evening and Night Time Economies continue to develop within the Borough.**

192. No powers exist for licensing authorities to limit the number of private hire vehicles that they licence.



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### **General Requirements for Vehicles**

#### **Insurance**

193. All vehicles must have a current valid policy of insurance at all times appropriate to the vehicle and its use. This policy must be in place before a licence can be granted.

194. Certificates for private hire vehicles are not acceptable if they include cover for public hire purposes, unless a valid reason can be demonstrated as to why the vehicle should be insured for public hire as well.

195. Individual policies shall be provided for each vehicle. However a fleet insurance policy will be accepted as long as it includes a schedule of all the vehicles covered. If the fleet policy covers a mixed fleet of both private hire and hackney carriage vehicles, the policy shall make it clear that cover for private and public hire services is subject to the appropriate local authority licences being held. It is the responsibility of the applicant to produce a valid certificate of insurance and the policy document when applying for the grant or renewal of a vehicle licence.

196. It is an offence to drive a vehicle without the appropriate insurance in place. Requests to produce insurance may be made during the term of the licence. These requests must be complied with in accordance with the time scales stipulated in the request.

197. If a vehicle is off the road and uninsured the proprietor must advise the Licensing Office in writing immediately or in any event within 72 hours.

#### **Advertisements, Signs, Notices etc.**

198. No signs, notices, advertisements, video or audio display etc. or other markings shall be displayed on, in or from the vehicle subject to the following exceptions:

- a. Any sign, notice or other marking required to be displayed by legislation or any condition attached to this licence.
- b. Signage or advertising approved in writing by the Council.

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199. Signs, notices or advertisements must not be of a content that the Licensing Officer deems to be offensive or abusive. Further guidance as to the content of the advert may be sought from the Advertisement Standards Authority, [www.asa.org.uk](http://www.asa.org.uk)

200. No commercial advertising on vehicles shall be allowed or affixed without prior approval of the Council and specifically shall not:

- a. Be affixed to any window of the vehicle.
- b. Be affixed to any door or panel on which the Council required sign is located.
- c. Be affixed to any part of the interior or exterior of any private hire vehicle operating under an Exemption Notice.
- d. Any unauthorised advertisements will be required to be removed and appropriate action will be taken for failing to comply
- e. Any queries regarding advertisements must be referred to the council

### Accident Notification

201. The proprietor is required by Section 50 (3) of The Local Government (Miscellaneous Provisions) Act 1976 to notify the Council in writing within 72 hours of any accident that results in damage to the vehicle.

202. The proprietor must comply with any request to either produce evidence of insurance for the vehicle and/or produce the vehicle for inspection so that its roadworthiness can be assessed. Any failure to do so is an offence and the appropriate action will be taken including suspension of the vehicle and potential prosecution for failure to produce insurance.

203. The proprietor shall submit the vehicle for any further testing and/or examination as requested by the Council and shall be responsible for the production of any independent engineers' reports considered necessary by the Council.

204. Where a vehicle has sustained accident damage and is subsequently declared an 'insurance write off' (i.e. in category A, B, and S) and/or the V5 document is endorsed as being 'accident damaged' the vehicle will no longer be allowed to remain as a licensed vehicle. **Non-structural damage will be considered subject to a satisfactory engineers report and mechanical examination.**

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### Vehicle and Meter Testing

205. All vehicles are required to undergo an inspection conducted by a vehicle examiner prior to being licensed and within every 6 months thereafter. Any vehicles failing this test will be required to have a retest and the licence will be suspended.

206. Any vehicle which fails to be presented for a pre-arranged inspection at the Council's Testing station will be deemed to have failed the test. A further test and full payment of the test fee will be required and the vehicle licence shall be suspended until the test has been successfully undertaken.

207. A vehicle test may be cancelled by providing a minimum of 2 working days' notice, in writing, to the Licensing Section prior to the date of the test without loss of the test fee. The vehicle licence may however be suspended until such time as the vehicle test is successfully undertaken.

208. Evidence of taxi meter testing is also required. The Best Practice Guidance suggests that an annual test may be appropriate for all vehicles and that more frequent tests may be appropriate for older vehicles and suggests twice yearly for vehicles more than 5 years old. However given the large number of miles undertaken in any one year by licensed vehicles no change in the number of tests is proposed.

209. This policy is also currently in accordance with that of the Tees Valley Authorities and also reflects a national approach to vehicle testing by the majority of local authorities.

210. It shall be the proprietor's responsibility to ensure that their licensed vehicle is roadworthy and maintained to the Councils standards at all times. Proprietors failing to maintain their vehicles in a safe and roadworthy condition may have their licence(s) suspended or revoked by the Council.

### Application Procedure

211. The following original documents, along with the appropriate fee are to be submitted in person or by post (only on-line when new system is introduced) for new and

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replacement vehicle applications. Only original documents will be accepted, however e-mails may be accepted provided they are sent by the Company With the introduction of a proposed on-line licensing system only on-line applications will be accepted:.

- a. Application form. This must be from a named person(s) or Company.
  - b. The Vehicle registration document (V5C – log book) in the Applicant’s name (Registered Keeper). **Where an applicant has joined the Driver and Vehicle Licensing Agency (DVLA) V5C on Demand Scheme the printable PDF of the vehicle details from within their View Vehicle Record will be accepted as an alternative to the V5C document so long as it is accompanied by a copy of the letter from the DVLA confirming that the applicant has joined the V5C on Demand scheme.**
  - c. If available appropriate valid certificate of motor insurance , public liability insurance, and where necessary employer liability insurance. Vehicle test “Pass” certificate from the Council’s testing station
  - d. A current MOT certificate for the vehicle or legal equivalent (HC 1 year PH 3 year).
  - e. Swivel seat installation certificate or proof of purchase (when applicable).
  - f. In the case of a wheelchair accessible vehicle Certification from the Vehicle Certification Agency (VCA) confirming that the vehicle meets the European Community Whole Vehicle Type Approval Standards in the M1 Category.
  - g. Meter calibration certificate where applicable
212. Although applications may be made by post **(subject to the introduction of an on-line application process)**, plates must be collected in person. Applicants may also wish to provide original documents in person. Applications for licence renewals should be made at least 7 working days prior to the licence expiry date to allow for the application to be processed.
213. Applications will not be determined until the Council receives all documents listed above. Only then will the application process be completed and the vehicle licence and plates will then be produced.
214. If the application is withdrawn the fee will be refundable minus the current admin charge. If an application is refused by the Licensing Committee then the fee will not be returned.
215. The Council has the discretion to attach, amend or remove a condition of licence.

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216. Proprietors should be aware that the Council is obliged to provide information in respect of joint proprietors to any government office, if requested to do so by any officer acting in an official capacity

### **Transfer of Interest**

217. The proprietor shall notify the Council on the appropriate form, giving the name and address of the new proprietor, within 14 days if the interest in the vehicle is transferred to another person not currently named on the licence. If the interest is transferred to a person currently named on the licence the Council should be advised in writing and will remove the outgoing proprietor.

218. The new proprietor shall provide the following documents to the Council:

- a. Vehicle registration document in new proprietor's name within 28 days.
- b. Appropriate valid certificates of insurance.

### **Change of address**

219. The proprietor must advise the Council in writing within 7 days of a change of address during the period of the licence.

### **CCTV in Vehicles**

220. The Department for Transport Best Practice Guidance recommends that licensing authorities look sympathetically on or even actively encourage the installation of security measures such as a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers. It is not currently proposed that such measures should be required as part of the licensing regime at this time, and it is considered that they are best left to the judgement of the owners and drivers themselves.

221. If CCTV is installed, the proprietor of any vehicle with **CCTV must register with the Information Commissioners Office ('notification') and produce documented evidence of that registration to the Council.** They must display a sign approved by the Council advising passengers that a CCTV system is in operation in the vehicle.

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222. Where CCTV is in place there is an expectation that it is in working order when passengers are being carried. The CCTV system should be maintained to the manufacturer's standards and recording must be retained for 28 days to be made available for viewing by a Police Officer or an authorised officer of the Council on request. Any failure to comply with this request will be reported to the Council.

223. Any reports of misuse of CCTV or recorded images may result in the immediate referral to the Licensing Committee with a view to suspending both the vehicle and driver licences.

224. It should be noted that external facing front and rear cameras used for the purposes of recording accidents or incidents outside the vehicle may be installed without prior authorisation from the Council. Such cameras shall not be used for recording audio from within the vehicle, nor shall they be moved to record images inside the vehicle.

### Tinted Windows

225. The Council's specification relating to the use of tinted windows in licensed vehicles is as follows:

- a. The windscreen shall have a minimum light transmission of 75%
- b. All other front windows of any vehicle shall have a minimum of 70% light transmission
- c. All rear windows shall have a minimum of 30% light transmission, unless the below criterion can be met where there will be no minimum light transmission

226. The minimum light transmission criteria is relaxed in the following circumstances:

- a. The windscreen and front side windows of any vehicle exempt from the criteria, when the vehicle is an executive hire or novelty hire vehicle or stretched limousine operating under an Exemption Notice, and
- b. The vehicle will not be engaged at all in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years unless accompanied by an adult other than the driver). The driver must not act as the accompanying adult, and

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- c. Written approval has been given by the Council.

### **Environmental Considerations**

227. The DfT guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they may have adopted, bearing in mind the need to ensure that benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.

228. The council recognises the introduction of Clean Air Zones (CAZ) around the country and supplies weekly data to DfT as required for enforcement

229. Hackney carriage and private hire vehicles are an essential form of transport in the Darlington Council area. Many people depend on such vehicles for trips that buses and other forms of public transport are unable to fulfil.

230. Licensed vehicles often achieve higher occupancy rates than a private car and so to some extent already play their part in helping to achieve environmental improvements in the Borough. It is, however, clearly important that emissions from hackney carriage and private hire vehicles are reduced as far as possible.

231. It is therefore proposed that efforts should be made to improve, as far as possible, the efficiency of licensed hackney carriage and private hire vehicles by, in particular, reducing the levels of CO<sub>2</sub> emitted.

232. Certain types of fuel efficient vehicles will be offered a 25% reduction in licensing fees. Vehicles types include:

- a. Electric
- b. Petrol Electric (Hybrid)
- c. Liquid Petroleum Gas (LPG)
- d. Compressed Natural Gas (NGV)

233. Other alternative fuels will be considered to qualify for a reduction in the licence fee as technology improves.

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234. Clearly emissions from hackney carriage and private hire vehicles could be reduced further by encouraging better maintenance and by **switching off engines when stationary or idling, particularly at taxi ranks**. It is, however, proposed that this aspect continues to be tackled through education and promotion. **This approach will be kept under review as further research into the effects of emissions emerge.**

### European Emission Standards

235. Darlington Borough Council has noted the advice given by the DfT to consider how far their vehicle licensing policies can and should support any local environmental initiatives by, perhaps, setting vehicle emissions standards or promoting cleaner fuels.

236. In their advice the Government has suggested that, by adopting targeted air quality policies for road transport, significant reductions can be achieved for noxious pollutants in the atmosphere.

237. It highlights the impact European wide emission limits are having on improving air quality. In private cars, these standards were introduced for new vehicles as follows:

- a. Euro I – mandatory for new cars from 1993
- b. Euro II – mandatory for new cars from 1997
- c. Euro III – mandatory for new cars from 2001
- d. Euro IV – mandatory for new cars from 2006
- e. Euro V - mandatory for new cars from 2011.
- f. Euro VI – mandatory for new cars from September 2015

238. In the interests of the environment tougher emissions standards will be introduced for all licensed vehicles. These standards will be phased, with strict retirement dates for vehicles that fail to meet the latest standards.

239. The stricter emission standard of Euro VI for new or replacement vehicles came into effect in September 2015.

240. Applications from proprietors of “classic” vehicles older than 12 years will be exempt from this requirement. This exemption will be kept under review.



## Appendix 2

### **Demand Responsive Transport**

241. The Council welcomes initiatives such as taxi sharing schemes and taxi buses and the environmental and improved service benefits that they bring. The Council recognises that these services can play a valuable role in meeting a range of transport needs and is keen to promote such services in order to increase the availability of transport to the travelling public. The Council will work with service providers to bring about such schemes where there is a demand for them.

242. The main legal provisions under which flexible services can be operated are listed below.

#### **Shared Taxis - Immediate Hiring's (Section 10, Transport Act 1985)**

243. The local authority can develop a scheme whereby hackney carriages can be hired at separate fares by up to eight people from ranks or other places that have been designated by the authority. The authority is required to set up such a scheme if holders of 10% or more of the hackney carriage proprietors in the Borough ask for one. The success or otherwise of such a scheme is dependent on the agreement of the passengers.

#### **Shared Taxis and Private Hire Vehicles – (Advance Bookings, Section 11, Transport Act 1985)**

244. Hackney carriage and private hire vehicles can provide a service at separate fares for up to eight passengers sharing the vehicle. The operator takes the initiative to match up passengers who book in advance and agree to share the vehicle at separate fares lower than that for a single hiring.

#### **Taxi buses (Section 12, Transport Act 1985)**

245. Hackney carriage proprietors can apply to the Traffic Commissioner for a 'restricted public service vehicle PSV operator licence'. The hackney carriage proprietor can use the vehicle to run a bus service for up to eight passengers.

Appendix 2

246. The route must be registered with the Traffic Commissioner and must have at least one stopping place in the area of the local authority that licensed the hackney carriage, though it can go beyond it. This provision is also being extended to Private hire vehicles.

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## Private Hire Operators

### Requirements and Obligations

247. Any person who operates private hire vehicles must apply to the Council for a private hire operator licence. **The Local Government (Miscellaneous Provisions) Act 1976 defines the terms 'operate' as meaning 'in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle'**. The objective in licensing private hire operators is to ensure the protection of the public who will be using the operator's premises and the vehicles and drivers arranged through them.

248. A private hire vehicle may only be despatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle. **An operator may subcontract a booking to another licensed private hire operator anywhere in England, Wales and Scotland.**

249. A private hire operator must ensure that every private hire vehicle despatched is licensed and driven by a person who holds a private hire driver's licence issued by the Council. It is a criminal offence to operate a private hire vehicle and/or driver without an operator's licence.

250. Operators need to familiarise themselves with the law and ensure they employ suitable work methods in order to comply with the law and avoid committing licensing offences.

251. It is a condition of licence that the applicant operates from premises within the controlled district of the Council. **A fixed landline telephone number for bookings must be provided at this premises. A licence will not be issued without this.**

## Appendix 2

252. The Licensing Office may require sight of a business plan or request additional information for new applications.

### **Operator Legislation Tests**

253. All new applicants for a Private Hire Operator Licence shall be required to successfully undertake a knowledge test relating to relevant legislation, licence conditions and policies. In the case of a Limited Company, this shall apply to the Company Secretary and Managing Director.

### **Criminal Record Checks**

254. Private Hire Operator licences can only be granted to persons that the Council are satisfied are fit and proper.

255. At the present time the Council is not able to obtain a DBS disclosure on applicants for Private Hire Operator licences and if the applicant is not a licensed driver reliance has to be placed on the information requested on the application form and any additional information if requested and during interview with the applicant. This is a position of trust as operators gain detailed knowledge as to a person's movements, travel arrangements etc.

256. Before an application for a Private Hire Operator licence will be considered the applicant must provide a certificate or search results on criminal convictions obtained within the last month which can be either:

- a criminal conviction certificate issued under The Police Act 1997; or
- the results of a data subject access search under General Data Protection Regulations of the Police National Computer.

257. If the applicant is currently licensed as a driver with the Council they will be exempt from this requirement as they will have already undergone a DBS check.

258. Applicants for renewal of a Private Hire Operator licence who are not licensed as drivers will be required to provide a new certificate or search results every 5th year

## Appendix 2

### Immigration Status

259. All applicants for the grant or renewal of a private hire operator's licence are required to demonstrate that they are not disqualified by their immigration status from holding a licence by submitting in person one of a number of prescribed acceptable documents which show that the applicant has permission to be in the UK and undertake work as an operator (LIST). If an applicant has an indefinite right to remain and work in the UK they will only be required to prove that entitlement once.

260. No licence will be granted until the applicant is able to provide such evidence

### Conditions

261. The Council has the power to impose such conditions on an operator's licence as it considers reasonably necessary.

262. Appendix 21 sets out the legislation and policies pertinent to Private Hire Operators which cover the standards of service expected and the conditions to be attached to an operator licence.

263. **Additional conditions may be imposed depending upon individual circumstances**

### Insurance

264. Applicants are required to produce evidence of appropriate public liability insurance (£5 million) and employer liability insurance.

### Planning Consent

## Appendix 2

265. Applicants are required to obtain planning consent, where necessary, for the premises from which they intend to operate. The Planning Authority will be consulted as part of the application for a Private Hire Operator Licence and their comments may be taken into account when determining whether the licence should be granted. The Licensing Manager and Assistant Licensing Manager has the discretion to refer any renewal application to the Licensing Committee.

### **Application Procedure**

266. The following documents are to be submitted for a new or renewal application:

- a. Application form
- b. Immigration status
- c. Details of all vehicles and drivers to be operated
- d. Certificate or search results on criminal convictions (if not currently licensed as a driver) obtained within the last month
- e. Safeguarding Vulnerable Passengers policy
- f. Pass/completion certificate for Safeguarding Awareness training (unless the applicant is a licensed driver)
- g. Public liability/employer liability insurance certificates
- h. Licence fee

267. Officers may require a site visit prior to the determination of the licence.

### **Licence Duration**

268. New applicants and applicants for renewal of licence be offered the opportunity to make an application for a 5 year licence in those cases where there are no issues concerning the application.

269. Applicants for grant and renewal of a Private Hire Operator licence who are not licensed as drivers will be required to provide a new certificate or search results every fifth year to facilitate the longer licensing period.

## Appendix 2

270. Private Hire Operators holding a 5 year licence will be required to attend the Licensing Section annually to make a declaration that they have not accrued any criminal convictions, cautions, reprimands or final warnings within the preceding 12 months and also that there has not been any change in the operation of the business. Licence holders will be required to sign a declaration that they will be liable for prosecution if they make a false declaration or omit to provide any requisite information.

271. Licences which exceed one year, will be subject to a higher licence fee.

272. Applicants can chose to apply for a one year licence

### **Address from which an Operator May Operate**

273. Upon grant of an operator's licence the Council will specify the address from which the operator may operate.

274. These premises must be in the controlled district of the Council, and will be expected to have planning consent for use as a private hire office where deemed applicable. If an operator wishes to change the base from which they operate they must make a fresh application.

275. Because of the potential for nuisance to residents associated with the parking of vehicles whilst they are waiting to be allocated work, a condition will be placed on operator licences requiring them to identify specific locations as bases where they would park their vehicles when waiting for bookings.

276. A condition will also be placed on operator licences requiring operators to operate only hackney carriage and private hire vehicles and drivers that have been licensed by Darlington Council unless subcontracting to another private hire operator outside the borough of Darlington. Where this is the case the operator must ensure that vehicles are of the equivalent standard required by this Council. This is to ensure that the travelling public of Darlington are provided with a consistent standard of service.

## Appendix 2

### **Record Keeping**

277. Operators are required to keep records of each booking, including the name of the passenger, the destination, the name of the driver, the number of the vehicle and any fare quoted at the time of booking. Appendix 21 refers.

278. Records should be preserved for a period of not less than 12 months and be available for inspection at the request of an Officer of the Council or Police. **These shall be kept either in a suitable book, the pages of which shall be numbered consecutively or by use of a computer data base.**

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

279. Operators are required to keep a record of every sub contract made with the operator or arranged by the operator.

### **Change of Home Address**

280. The operator must advise the Council in writing or electronically of any change of his home address within 7 days of such a change taking place.

### **Convictions/Cautions**

281. The operator shall disclose to the Council within 7 days in writing of any conviction or caution (s)he receives.

### **Complaints**



## Appendix 2

282. The operator must advise the Council within 7 days of any complaints received concerning a contract for hire or purported contract for hire relating to or arising from his/her business and the action that the operator proposes to take. These details will be kept on file.

283. Where the Council becomes aware of any complaint and investigates it, the Operator shall comply with any reasonable request or directive issued by the investigating officer.

284. Whilst it is expected that the Operator shall attempt to resolve all complaints initially, Operators must also notify the Council by the next working day of receipt of any allegation, concern or complaint received relating to any person licensed by the Council which involves the following:

- a) Allegations of sexual misconduct, sexual harassment or inappropriate sexual behaviour
- b) Racist behaviour
- c) Any safeguarding concern
- d) Equality breaches
- e) Violence
- f) Dishonesty

285. Operators must also provide complainants who are dissatisfied with the outcome of their investigation/response into their complaint with contact details for the Council's Licensing Section.

### **Material Change**

286. A Private Hire Operator Licence is not transferable and operators must notify any proposed changes to the person(s) authorised to operate under the terms of the licence to the Council immediately in writing.

## **General**

### **Fares**

## Appendix 2

287. Councils have the power to set hackney carriage fares for journeys within their area. Hackney carriage fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.

288. The Council will review the table of fares when requested by the Trade. When determining the level of fares consideration will be given to what is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a service at all times it is needed.

289. A notice of any variation to the maximum fare will be advertised in a local newspaper with a date set 14 days from publication for making objections to the proposed variation. If no objections are received the fare variation will have effect on a day specified at the end of the 14 day consultation period. If any objections are received the matter will be referred to Cabinet for consideration and a further implementation date will be set.

290. The Council is not able to set fares for private hire vehicles. It is a matter for negotiation between the hirer and operator at the time of booking and the operator should make this clear. When a hackney carriage vehicle is used for private hire services the fare charged cannot exceed that which would be charged under the table of fares applicable to hackney carriages.

291. When a journey ends outside of the Council's area a fare greater than that shown on the meter may be charged but only if an agreement has been made with the hirer in advance. In the absence of such an agreement, only the metered fare can be charged. Failure to comply is an offence.

### **Table of Fares**

292. A table of fares will be provided to each hackney carriage licence holder, which must be displayed in each vehicle so that it is easily visible to all hirers. This requirement shall apply equally to private hire vehicles where a meter is fitted

### **Receipts**

## Appendix 2

293. A driver must, if requested by the hirer, provide a written receipt for the fare paid.

### **Overcharging**

294. All meters must be calibrated to the correct fare scale. It is an offence for the driver to demand more than the fare shown on the meter. If this should occur the driver will be prosecuted.

### **Fee Structure**

295. The legislation provides that the fees charged should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands and administering the control and supervision of hackney carriages and private hire vehicles.

296. The current fees payable for the grant and renewal of hackney carriage and private hire licences are available from the Licensing Office and the Council's website.

### **Variations to Fee Structure**

297. The fee structure is reviewed annually as part of the budgetary process. Notice of the current scale of fees will be supplied to new applicants at the time of application.

298. A notice of any variation to the maximum fees in respect of vehicles and operators will be advertised in a local newspaper with a date set 28 days from publication for making objections to the variation of fees.

299. If no objections are received the fee variation will have immediate effect at the end of the 28 day consultation period (or at a later date as indicated by the Council). If any objections are received the matter will be considered by the Licensing Committee

### **Payments**

## Appendix 2

300. Licences which commence part way through a month will terminate in the following year (or anniversary of 1st registration of vehicle) on the last day of the preceding month. Payments can be made in the form of cash in person or cheques made payable to Darlington Borough Council, which can be accepted at the Licensing Office. **With the introduction of an on-line application process all payments will be made electronically.**

301. If cheques are returned "refer to drawer" a £15 charge shall be levied against the applicant and all future applications will normally have to be made with cash payments.

### Payment Credit

302. Fees paid in relation to hackney carriage and private hire vehicle licences will be subject to a partial credit on the unexpired portion of the licence should the proprietor choose to surrender their licence during the period of the licence. This credit must be used to offset the cost of a new vehicle licence. The amount of credit shall be determined by the Council and an administration fee will also be levied. Credit will only be allowed where:

- a) The vehicle licence is surrendered correctly
- b) A request for credit has been made in writing
- c) The plates and licence have been surrendered
- d) The credit is used during the current financial year.

303. The total credit will be calculated as the licence fee minus the current administration fee, divided by 12 months and then multiplied by the whole months remaining on the licence.

304. Once surrendered the vehicle will not be licensed by the Council unless it is less than 4 years of age at the time the application is made (or less than 5 years in respect of purpose built wheelchair accessible vehicles).

305. No cash alternative shall be offered at any time

### Reduced Fees for Vehicle Licences

## Appendix 2

306. Where a vehicle will reach its 8th anniversary during the period of a licence a reduced fee will be calculated as follows: the current administration fee plus the difference between the remaining annual licence fee, divided by 12 months and then multiplied by the number of months from the start of the licence period to the 6th anniversary (part months will be charged as full months.)

## Convictions, Cautions, Conduct and Medical Fitness

### Hackney Carriage and Private Hire Drivers

307. When an application is made for a hackney carriage or private hire driver licence the Council must be satisfied that the applicant is a fit and proper person before issuing the licence. By law the Council shall not licence drivers unless they are satisfied of this (s.51 and s.59 Local Government (Miscellaneous Provisions) Act 1976). **The legislation is worded in such a way as to put the onus on the applicant to provide evidence that they are a fit and proper person, rather than for the Council to prove that they are not.**

308. If adequate evidence that a person is a fit and proper person is not adduced or if there are grounds to question or doubt the evidence provided, then that could amount to good reason to refuse a licence.

309. In addition, the Council may:

- a) suspend; or
- b) revoke; or
- c) refuse to renew a hackney carriage or private hire driver licence if the licensee:
- d) has been convicted of an offence involving dishonesty, indecency or violence; or
- e) has been convicted of a private hire/hackney carriage licensing offence; or for any other reasonable cause\*. (s.61 LG(MP) Act 1976)

\*Reasonable cause will include other convictions, cautions, fixed penalties, medical fitness, speed awareness course and conduct.

310. If it appears in the interests of public safety to do so then a suspension or revocation will have immediate effect and the driver will be given notice of that decision. The effect of this decision will mean that a driver cannot continue to drive should an appeal be made against the decision. (Section 52 Road Safety Act 2006)

## Appendix 2

### Operators

311. The Council must also be satisfied that applicants for operator licences are fit and proper before issuing a licence. These guidelines will therefore be referred to when considering an Operator Licence Application.

312. It is accepted that the Operator does not have the same level of direct contact with the public, as they will not drive the customer (unless s/he also holds a private hire driver's licence). However, it is acknowledged that the Operator will be in possession of information about people's whereabouts and movements and will deal with the public either face to face or over the telephone and therefore there is a need for them to fit and proper people.

313. In addition, the Council may

- a) Suspend
- b) Revoke; or
- c) Refuse to renew

an operator's licence for:

- i) Any offence, or non-compliance with the provisions of the LG (MP) Act 1976; or
- ii) That he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty
- iii) Any conduct on the part of the operator which appears to the Council to render him unfit to hold an operator's licence;
- iv) 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
- v) Any other reasonable cause

### Rehabilitation of Offenders Act 1974

314. Hackney Carriage and Private Hire drivers are excluded from the effects of the Rehabilitation of Offenders Act 1974. All relevant convictions, including spent convictions, may therefore be considered.

## Appendix 2

# **Guidance as to the Relevance of Convictions, Cautions and Endorsable Fixed Penalties**

## **Section A - General policy**

315. The Council has guidelines on the Relevance of Convictions (see Appendix 7). These are intended to assist Licensing Officers and the Committee in decision making and to ensure a consistent approach is maintained. However, each case is to be decided upon its own merits and Officers and the Committee may not adhere rigidly to the guidelines if there are exceptional circumstances, which warrant a departure. Similarly simply remaining free of conviction will not generally be regarded as sufficient evidence that a person is a fit and proper person to hold a licence.

316. It may be appropriate to depart from the general policy in some cases, for example, situations where the offence is isolated and there are strong and exceptional mitigating circumstances.

317. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. Members will consider the proliferation and the totality of the offences, convictions, cautions, complaints etc. when deciding if a person is a fit and proper person.

318. Where there has been a conviction for a sexual offence, murder or manslaughter a licence will normally be refused unless there is an exceptional reason to depart from the Policy.

319. Where an applicant has served a custodial sentence the Council will consider the number of years since their release and the period for which they have been free of conviction when determining their fitness to be licensed. Time spent in custody will generally be discounted from the conviction free period.

## Appendix 2

320. Where there is a pattern of offences, such as numerous convictions for violence, etc., the whole of the applicant's/licensee's criminal convictions will be taken into account, along with any complaints about their conduct or behaviour.

321. The guidelines should assist applicants and licensees and those that represent them by clearly setting out the expectations the Council has in relation to the behaviour of applicants/licensees. This should also minimise the time (and associated costs) spent by both the Council and applicants/licensees

322. These guidelines will be taken into account and in general will be followed when dealing with a new application, a renewal application and when considering whether to issue a warning, suspend or revoke an existing licence.

323. The aim of these guidelines is not to punish the applicant/licensee twice for a conviction or caution but to ensure that public safety is not compromised and to protect the public from those who have demonstrated a propensity toward wrongdoing.

324. In considering evidence of an applicant's good character and fitness to hold a driver licence, where previous convictions or other information relating to criminal matters is disclosed, the Council will consider the nature of the offence, when it was committed, the date of conviction, the applicant's age when the offence was committed and any other factors which might be relevant. However, where an applicant has been convicted of a criminal offence, the Council cannot look behind the conviction [Nottingham City Council v Mohammed Farooq (1998)].

325. The guidelines do not deal with every type of offence. However, offences described in the guidelines and similar offences will be taken into account in accordance with the guidelines.

### **Formal Cautions and Fixed Penalties**

326. For the purpose of the guidelines, formal cautions and fixed penalties shall be treated as though they were convictions.



Appendix 2

## Section B – Conduct

327. Criminal convictions are not the only criteria used when considering whether an individual is a fit and proper person to be licensed. Other factors, including the applicant's or licensee's demeanour, appearance, behaviour (particularly through the application process), and any previous complaints or warnings may be taken into account in determining fitness and propriety.

328. The Council may require an applicant to submit additional information it reasonably considers necessary to enable it to determine whether a licence should be granted or whether conditions should be attached (s.57 LG(MP) Act 1976).

329. The Courts have established that the licensing regime exists to prevent licences being given to or used by those who are not suitable, taking into account their previous criminal history, driving record, driving experience, sobriety, mental and physical fitness, honesty and ensuring that they would not take advantage of their employment to abuse or assault passengers (Leeds City Council v Hussain 2002.)

330. When determining the fitness and propriety of drivers, Council Officers and Members will consider whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom they care, to get into a vehicle with the applicant/licensee alone.

331. If the answer to this question is an unqualified yes, then the test is probably satisfied. If, on the balance of probabilities, the Officers or Members have doubts then further consideration will be given as to whether the individual is a fit and proper person.

332. The Council may also consider circumstances of concern even though a conviction has not been obtained or the conduct does not amount to a criminal offence.

333. The Council's focus is upon the impact of the applicant or licence holder upon members of the public. This does not require any consideration of the personal circumstances of the applicant or licensee, which are irrelevant, except perhaps in very rare cases to explain or excuse some conduct of the driver.

## Appendix 2

### Enforcement, Discipline and Offences

#### Council Officers and the Licensing Committee

334. Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service.

335. Enforcement of hackney carriage and private hire matters is undertaken by the Council. The Police may also take action in certain circumstances.

336. Officers of the Council (usually Licensing Enforcement Officers) are authorised by the Council to undertake enforcement work. **The Assistant Director of Economic Growth and Neighbourhood Services authorises such officers.** In undertaking such work the Officers will comply with the appropriate Enforcement Policy Statement. Enforcement work includes routine checks and inspections, investigating complaints made about drivers, vehicles and operators in addition to matters observed by Officers e.g. vehicle defects. The Council can consider circumstances of concern even though a conviction has not been obtained or the conduct does not amount to a criminal offence.

337. The Council may take appropriate disciplinary action against licensees in accordance with this policy.

338. The Council's Licensing Committee may also determine the appropriate disciplinary action (if any) to take against licensees referred to it. The procedure for referral to Committee and the Committee procedure are detailed at Appendix 22

#### Enforcement/Disciplinary Options

339. There are various options to take depending upon the circumstances including:

- a. Take no action

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- b. Take informal action, including warning letters and referral to Driver Improvement Scheme (or any other appropriate awareness scheme developed in the future)
- c. Suspend a licence
- d. Revoke a licence
- e. Refuse to renew a licence
- f. Use statutory and other notices/requests
- g. Use formal cautions
- h. Prosecute
- i. Obtain an injunction

340. Only the Licensing Committee can revoke a licence or require that a driver attends the Driver Improvement Scheme.

341. The Licensing Manager or Assistant Manager may suspend a driver licence of a licensed hackney carriage or private hire licence holder where the driver:

- a. fails to comply with Group II requirements as defined in the DVLA Current Medical Standards of Fitness to Drive,
- b. is arrested, charged or accused of an offence involving serious violence, stalking, supply of a controlled substance, rape, sexual assault or inappropriate conduct with a minor or vulnerable person.\*

\*in most cases the support from the Council's Local Authority Designated Officer (LADO) will be sought in making a decision to suspend a driver's licence.

342. Where possible the Licensing Manager or Assistant Licensing Manager will liaise with the chair of the Licensing Committee prior to making a decision to suspend. If this is not possible the chair will be informed at the earliest opportunity.

343. Where a driver licence is suspended by the Licensing Manager or Assistant Licensing Manager, the driver may appeal to the Magistrates Courts within 21 days of the suspension and will also be referred to the next Licensing Committee.

344. If the Licensing Manager or Assistant Licensing Manager considers it necessary to apply the provisions of Section 61 2B of the Local Government (Miscellaneous Provisions) Act 1976, then any right of appeal will not enable a driver to continue to drive licensed vehicles.

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345. An Authorised Officer can suspend a vehicle licence where the vehicle:
- a. fails to pass its biannual vehicle test for serious defects
  - b. has sustained accident damage which may materially affect the safety, performance or appearance of the vehicle or the comfort or convenience of passengers.
  - c. does not have current appropriate insurance which covers the vehicle and driver for the purpose to which the vehicle is to be used
  - d. does not have a current MOT or Vehicle Excise Duty
  - e. driver is not licenced to drive the vehicle or his/her licence to drive such a vehicle is suspended or revoked unless there is an alternative driver who has appropriate insurance cover to drive the vehicle.
  - f. fails to attend a pre-arranged vehicle test or where the test is cancelled with 2 working days' notice.

346. If a vehicle has been suspended in accordance with Section 68 of the 1976 Act (fitness of vehicle or taximeter) the vehicle proprietor does not have the right to appeal this decision to the Magistrates Courts unless the licence is automatically revoked after a 2 month period. If a vehicle is suspended under Section 60 of the 1976 Act (fitness/offences/reasonable cause) the vehicle proprietor shall have the right to appeal any such suspension at the Magistrates Court.

347. An Authorised Officer will not renew the vehicle licence where the vehicle has attained the age of 8 years (ten years for purpose built vehicles)

### **Informal Action**

348. Informal action may be used to secure compliance with the legislation and policy including offering advice, verbal and written warnings and requests for action.

349. Informal action may be appropriate where:

- a. the act or omission is not serious enough to warrant more formal action;
- b. from the individual licensee's history it can be reasonably expected that informal action will achieve compliance;
- c. the consequences of non-compliance will not pose a significant risk to the safety of the public.

## Appendix 2

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

351. Repeated incidents of licence infringements, complaints etc. are likely to lead to action being taken against the licensee or a referral to the Licensing Committee.

352. Existing licensed drivers who attain 9 penalty points on their DVLA drivers licence for offences relating to their standard of driving or have a poor driving history will be referred to the Licensing committee and Members will be invited to require (where applicable) attendance at driver awareness courses, at the driver's expense.

### **Suspension, Revocation or Refusal to Renew a Licence**

#### **Drivers Licences – Section 61**

353. The Council may suspend or revoke or refuse to renew a driver licence (private hire or hackney carriage) on any of the following grounds:

- a. that since the grant of the licence the licensee has been convicted of an offence involving dishonesty, indecency or violence; or
- b. that since the grant of the licence the licensee has been convicted of an offence under or has failed to comply with Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976; or
- c. any other reasonable cause.

354. In addition the following revisions to Section 61 were introduced under Section 52 of The Road Safety Act 2006:

- a. (2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which the notice is given to the driver under subsection (2)(a) of this section.

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- b. (2B) 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 under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

355. Where the Council suspends, revokes or refuses to renew a driver licence under s.61 LG (MP) Act 1976 it shall give the driver written notice of the grounds for the decision within fourteen days. The driver must return to the Council the Driver badge. The driver may appeal to a Magistrates' Court. Any appeal must be lodged within 21 days of notification of the decision. Except in the case of a Road Safety Act suspension the driver badge may be retained once an appeal is lodged at the Magistrates Courts.

### Suspension of Vehicle Licence - Section 68 Notices

356. An authorised officer (or police officer) has the power at all reasonable times to inspect and test any hackney carriage or private hire vehicle (or taximeter affixed to such a vehicle) licensed by the Council to ascertain its fitness. If s/he is not satisfied as to the fitness of the vehicle or the accuracy of the taximeter s/he may by a written notice require the proprietor to make the vehicle or taximeter available for further inspection and testing at a reasonable time and place specified in the notice. Vehicles which are not presented for pre-arranged tests or have such tests cancelled cannot satisfy the Officer that the vehicle is fit for use and will therefore be suspended.

357. The officer may suspend the vehicle licence until such time as they are satisfied as to fitness/accuracy (section 68 of the 1976 Act). Suspension under s.68 takes immediate effect. There is no right of appeal against such a suspension.

358. If after 2 months from the issue of the suspension notice, the officer is not satisfied of the fitness/accuracy of the vehicle, the vehicle licence will be revoked in accordance with the legislation. The proprietor shall be given written notice of the revocation. Such matters therefore do not need to be referred to the Licensing Committee. There is a right of appeal against the revocation of the licence and any appeal must be lodged within 21 days of notification of the decision.

Appendix 2

## **Suspension of Vehicle Licence - Section 60 Notices**

359. The Council may suspend or revoke or refuse to renew a vehicle licence (private hire or hackney carriage) on any of the following grounds:

- a. that the vehicle is unfit for use;
- b. the operator or driver has committed any offence under or has not complied with the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976; or
- c. any other reasonable cause
- d. Among other things, "any reasonable cause" will include non-production of evidence of insurance.

360. Where the Council suspends, revokes or refuses to renew a vehicle licence under section 60 of the 1976 Act it shall give the proprietor written notice of the grounds for the decision within fourteen days. The proprietor may appeal to a Magistrates' Court. Any appeal must be lodged within 21 days of notification of the decision. Failure to provide insurance may result in a section 60 suspension.

## **Operator Licences - Section 62**

361. The Council may suspend or revoke or refuse to renew an operator licence on any of the following grounds:

- a. any offence under or non-compliance with Part II of the Local Government (Miscellaneous Provisions) Act 1976;
- b. any conduct on the part of the operator which appears to render him unfit to hold an operator's licence;
- c. any material change since the licences was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
- d. any other reasonable cause.

362. Where the Council suspends, revokes or refuses to renew an operator licence under section 62 of the Act, it shall give the operator written notice of the grounds for the decision within 14 days. The operator may appeal to a magistrates Court. Any appeal must be lodged within 21 days of the decision.

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### **Stay of Action Pending Outcome of Court Appeal**

363. Section 77 (2) of the 1976 Act stays any action against a licence pending the outcome of the Court appeal. This means that if a driver, operator or proprietor appeals against a decision to refuse to renew, suspend or revoke his licence, the licence is deemed to remain in force until the appeal has been determined (but see paragraph 283 below re s52 Road Safety Act suspensions.)

364. The licensee has 21 days from notification of the decision to lodge an appeal with the Court. The licensee can continue to use the licence during that period and once an appeal is lodged, can continue to use it until the appeal has been dealt with.

365. If the Magistrates Courts dismiss the appeal the licensee has 21 days within which to lodge an appeal in the Crown Court and again, can continue to use the licence until the appeal is determined.

366. The Council may decide that a suspension or revocation of a driver licence should take immediate effect in accordance with Section 52 of the Road Safety Act 2006, where they consider it is in the interests of public safety to do so. In such cases the notice given to the driver must include a statement that it is an immediate suspension/revocation and an explanation why. In this case the suspension or revocation takes effect when the notice is given to the driver and the driver will not be able to continue working pending any appeal.

367. Where a licensee's Court appeal is unsuccessful the Court may order them to pay the Council's costs. Where an appeal is successful but the Council has acted in good faith costs may not be ordered against the Council.

368. The 21 day period in which to appeal is rigid and appeals cannot be made after this time (Case Law: Stockton Borough Council v Latif 20 January 2009).

### **Requests for Insurance**



## Appendix 2

369. The Council may request the production of a valid insurance document at any time. If a valid insurance is then not produced the vehicle licence will be suspended and the proprietor may be prosecuted (s.50 LG (MP) Act 1976). In addition, anyone driving an uninsured vehicle may be prosecuted (s.143 Road Traffic Act 1988).

## Cautions

370. A caution may be used as an alternative to a prosecution in appropriate circumstances, where the criteria for prosecution are satisfied but an offence is of a less serious nature. The Council will have regard to Home Office Guidance and other relevant guidance. It is necessary for the offence to be admitted prior acceptance of a caution. If a caution is not accepted the matter will be referred for legal proceedings. It is unlikely that more than one caution will be issued (regardless of the type of offence) and repeat offences will lead to prosecution.

371. A caution may be used:

- a. to deal quickly and simply with less serious offences;
- b. to divert less serious offences away from the Courts;
- c. to reduce the chances of repeat offences.

## Prosecution

372. In certain cases the Council will prosecute offenders. In all cases the evidential and public interest test contained within the Code for Crown Prosecutors must be satisfied. The Council will seek to prosecute for a range of offences including overcharging of members of the public, acting as and/or using unlicensed drivers and vehicles, failing to engage taximeter, driving without insurance or invalidating insurance (e.g. illegal plying for hire). Breaches of the licensing legislation may also lead to prosecution. Furthermore the Council's Civic Enforcement Team is empowered to issue fixed penalties in respect of stationary vehicles with their engines idling to prevent unnecessary exhaust emissions.

373. In addition to prosecution, the licensee may be referred to the Licensing Committee for consideration of further disciplinary action (e.g. warning, suspension, revocation, refusal to renew).

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**Town Police Clauses Act 1847 (The 1847 Act)**

374. The following offences under the 1847 Act relate to hackney carriages

Section	Offence
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## Appendix 2

40	Giving false information on an application for a HC proprietor licence
44	Failure of HC proprietor to notify of change of address
45	Plying for hire without HC proprietor licence
47	Driving a HC without HC driver's licence
47	Lending or parting with HC driver licence
47	HC proprietor employing unlicensed driver
48	Failure of HC proprietor to hold HC driver licence of person employed/permitted to drive his/her HC
48	Failure of HC proprietor to produce HC driver licence of person employed/permitted to drive his/her HC
52	Failure to display HC plate
53	Refusal to take a fare
54	Charging more than the agreed fare
55	Obtaining more than the legal fare
56	Travelling less than the lawful distance for an agreed fare
57	Failing to wait after a deposit to wait has been paid
58	Charging more than the legal fare
59	Carrying person other than the hirer without consent
60	Driving HC without proprietor's consent
60	Allowing another to drive HC without proprietor's consent
61	Drunken driving of HC
61	Wanton or furious driving or wilful misconduct leading to injury or danger
62	Driver leaving HC unattended
64	HC driver obstructing other HC's

### **Local Government (Miscellaneous Provisions) Act 1976 (The 1976 Act)**

375. Offences under 1976 Act relate to hackney carriages and private hire vehicles, proprietors, drivers and operators.

## Appendix 2

## a) The 1976 Act - Hackney Carriage Provisions

<b>Section</b>	<b>Offence</b>
49	Failure of proprietor to notify Council of transfer of HC proprietor licence
50(1)	Failure of proprietor to present HC for inspection as requested
50(2)	Failure of proprietor to inform Council where HC is stored if requested
50(3)	Failure of proprietor to report an accident to the Council
50(4)	Failure of proprietor to produce HC proprietors licence and insurance certificate
53(3)	Failure of driver to produce HC driver licence
57	Making false statement or omitting information to obtain a HC proprietor licence
58(2)	Failure of proprietor to return plate after notice given after expiry, revocation or suspension of HC proprietor licence
61(2)	Failure to surrender drivers licence after suspension, revocation or refusal to renew
64	Cause or permit any vehicle other than HC to wait on a HC stand
66	Charging more than metered fare for a journey ending outside the district, without prior agreement
67	Charging more than metered fare when HC used as PH vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taximeter
73(1)(a)	Obstruction of authorised officer or constable
73(1)(b)	Failure to comply with requirement of authorised officer or constable
73(1)(c)	Failure to give information or assistance to authorised officer or constable

## b) The 1976 Act - Private Hire Provisions

## Appendix 2

<b>Section</b>	<b>Offence</b>
46(1)(a)	Proprietor using or permitting use of an unlicensed PH vehicle
46(1)(b)	Driving a PH vehicle without a PH driver licence
46(1)(c)	Proprietor of PH vehicle using an unlicensed driver
46(1)(d)	Operating a PH vehicle without a PH operator licence
46(1)(e)	Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle
46(1)(e)	Operating a vehicle as a PH vehicle when the driver is not licensed as a PH driver
48(6)	Failure to display PH vehicle plate when using or permitting use of PH vehicle
49	Failure to notify the Council of transfer of PH vehicle licence
50(1)	Failure of proprietor to present PH vehicle for inspection and testing as required
50(2)	Failure of proprietor to inform Council where PH vehicle is stored if requested
50(3)	Failure of proprietor to report an accident to the Council
50(4)	Failure of proprietor to produce PH vehicle licence and insurance certificate
53(3)	Failure of driver to produce PH driver's licence
54(2)	Failure to wear PH driver's badge
56(2)	Failure of PH operator to keep records of bookings
56(3)	Failure by PH operator to keep records of PH vehicles operated by him
56(4)	Failure to produce PH operator's licence on request
57	Making false statement or omitting information to obtain PH driver's or operator's licence
58(2)	Failure to return plate after notice given after expiry, revocation or suspension of PH vehicle licence
61(2)	Failure to surrender driver licence after suspension, revocation or refusal to renew
67	Charging more than the metered fare when HC used as PH vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taximeter
73(1)(a)	Obstruction of authorised officer or constable
73(1)(b)	Failure to comply with requirement of authorised officer or constable
73(1)(c)	Failure to give information or assistance to authorised officer or constable

**Transport Act 1980 – Private Hire Provisions**

## Appendix 2

376. Section 64(2)(a) Driving a Private Hire vehicle with a roof sign which contravenes s. 64(1)

377. Section 64(2)(a) causing or permitting a Private Hire vehicle to be driven with a roof sign which contravenes s.64(1)

### **Road Traffic Act 1988 S.143 – Using a Vehicle without Insurance**

378. Drivers may be prosecuted by the Police or the Council in relation to driving without insurance. As well as a financial penalty the DVLA driver licence must be endorsed with between 6-8 penalty points and the Court has discretion to disqualify the driver. The Court will consider any aggravating and mitigating factors when sentencing. If the vehicle concerned is a hackney carriage or private hire vehicle this will be an aggravating (i.e. more serious) factor.

### **Criminal Justice and Public Order Act 1994 S.167 – Touting for Hire**

379. It is an offence in a public place, to solicit persons to hire vehicles to carry them as passengers.

380. Health Act 2006, S.7 – Smoking in vehicle and S.8 – Failing to Prevent Smoking in a Vehicle

### **Hackney Carriage Byelaws**

381. Prosecutions may be brought against hackney carriage proprietors and drivers for breach of the Council's byelaws.

### **Equality Act 2010**

382. Section 168 – Assistance dogs in taxis

- (1) This section imposes duties on the driver of a taxi which has been hired
  - (a) By or for a disabled person who is accompanied by an assistance dog, or

## Appendix 2

- (b) By another person who wishes to be accompanied by a disabled person with an assistance dog
- (2) The driver must-
  - (a) Carry the disabled person's dog and allow it to remain with that person;
  - (b) Not make any additional charge for doing so

### 383. Section 170 - Assistance dogs in private hire vehicles

- (1) The operator of a private hire vehicle commits an offence by failing or refusing to accept a booking for the vehicle –
  - (a) If the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and
  - (b) The reason for the failure or refusal is that the disabled person will be accompanied by an assistance dog.
- (2) The operator commits an offence by making an additional charge
- (3) The driver of a private hire vehicle commits an offence by failing or refusing to carry out a booking accepted by the operator—
  - (a) If the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and
  - (b) The reason for the failure or refusal is that the disabled person is accompanied by an assistance dog.

## Hackney Carriage Stands

### Appointed Stands

## Appendix 2

384. The purpose of hackney carriage stands (also known as a hackney carriage rank or a taxi rank) is to provide the public with a set location where they can hire a licensed hackney carriage. The stand is the only place where a hackney carriage may ply for hire in a stationary position and should be situated in locations where the public most need hackney carriages, for example adjacent to transport facilities, retail areas and places of employment, entertainment and leisure facilities. Stands should be sited so that passengers can board or alight from the vehicle safely. Stands can be for continual or part-time use.

385. The Council will review the provision of hackney carriage stands in the borough from time to time. In this respect officers will work closely with the Darlington Hackney Carriage Trade.

386. There are currently 12 official hackney carriage stands in the borough providing spaces for a total of 62 vehicles. A list of the stands and their designated locations are attached at Appendix 19. (to be updated prior to publication)

### **Creation of a Stand**

387. A new hackney carriage stand can be appointed under section 63 of the 1976 Act. This allows new stands to be created on public highways or private land with the appropriate consent of the land owner and can be for continual or part-time use.

388. Prior to a new stand being created or the maximum number of vehicles that can use a stand is varied a notice will be given to the Chief Officer of Police and a public notice published in a local newspaper.

389. New stands will not be sited where they may lead to obstructions.

### **Waiting on Stands**

390. It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages.



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391. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare. Drivers who park on a stand and leave their hackney carriage vehicle unattended commit an offence.

392. When parking on a rank the driver must ensure that the whole of the vehicle is contained within the road markings of the rank. The vehicle must be parked in the direction indicated by the rank signage.

393. The signage for each rank indicates the maximum number of vehicles permitted on the rank. This number must not be exceeded. If the rank is full the driver must proceed to another rank.

### **Hackney Carriage Hailing Points**

394. Hackney carriage hailing points have been introduced in other parts of the country and are an alternative to a stand either where there is insufficient space for a stand or the location does not justify the creation of a stand. It is a specific point where the public know they will be able to hail a hackney carriage and the theory is that the drivers know where they are and will ensure that they pass them on a regular basis. There is no provision for hackney carriages to wait at hailing points.

395. A request has not been made for the provision of hailing points within the Darlington Borough.

### **Horse Drawn Carriages**

396. Horse drawn carriages can be considered for licensing as a hackney carriage vehicle however there are special requirements for such vehicles, their horses and drivers. Appendix 19 provides detailed information in respect of the licensing of these vehicles.

397. Private Hire vehicles may not be licensed as a horse drawn carriage as Section 80 (1) Local Government (Miscellaneous Provisions) Act 1976 describes a private hire vehicle as “a motor vehicle constructed or adapted to seat fewer than eight passengers, other than a

## Appendix 2

hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers”

### **Complaints Procedure**

398. The Council is proud of its professional private hire and hackney carriage trade and expects them to uphold high standards at all times. However we recognised that there may be occasions when transport users, the general public and other members of the trade may make complaints and as such a complaints procedure will be followed.

399. All complaints received will be investigated. Complainants will receive acknowledgement of their complaint within one working day advising the name of the Officer assigned to investigate the complaint.

400. Complainants may be asked to put their complaint in writing or provide a witness statement if the complaint is such that formal action may result.

401. The Council recognises that some complaints can be frivolous or vexatious. These complaints will not be taken further.

402. Licensees are expected to assist Officers in their investigations and make themselves available for interview.

403. At the end of the investigation all parties concerned will receive written confirmation of the result and action to be taken. If the complainant is not satisfied as to the outcome the Council has a corporate complaints procedure in place to deal with these issues.

## **Legislation – Drivers**

## **Appendix 1**

1. Section 68 of the Town Police Clauses Act (TPCA) 1847 allows the Council to make Byelaws to regulate the conduct of hackney carriage drivers including the wearing of badges and return of left luggage.
2. The Local Government (Miscellaneous Provisions) Act 1976 at Section 51(2) permits the Council to attach conditions to the grant of a private hire driver licence as it may consider reasonably necessary.
3. Section 52(2) of the same Act gives the right of appeal to the Magistrates' Court to any person aggrieved by any of the conditions attached to the grant of a private hire driver licence. Such appeal must be made within 21 days of receipt of licence. Failure to comply with the Council's conditions may result in a PH Driver licence being suspended or revoked.
4. Parts of the Local Government (Miscellaneous Provisions) Act (LG (MP) Act) 1976 also apply to hackney carriage drivers.
5. Failure to comply with any legislation is an offence.

### **Authorised Officers (S73 LG(MP) Act 1976)**

1. It is an offence to obstruct any Authorised Officer or Police Officer. All Licensees must provide any assistance or information (s)he may reasonably require.

### **Carriage of Animals (S37 Disability Discrimination Act 1995)**

2. Drivers shall not refuse to carry, or make a charge, for any guide, hearing or other assistance dog, travelling with a person with disabilities, in their vehicle. These dogs will not be restricted to the rear of the vehicle. If a driver has been granted an exemption from carrying such dogs on medical grounds (s)he must display the notice of exemption on the windscreen or dashboard of the vehicle.

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## **Drivers Badges (S54. LG(MP) Act 1976 and Hackney Carriage Byelaws)**

### 1. Wearing of Badge

- a. Drivers must, at all times, when driving a hackney carriage / private hire vehicle, WEAR the badge provided by the Council in a position which is plainly and clearly visible to passengers.

### 2. Return of Badge

- b. Drivers must, upon the expiry revocation or suspension of licence return to the Council the driver's badge and the licence issued to the driver by the Council when granting the licence.

## **Equal Opportunities**

1. Drivers must at all times treat passengers or any potential passenger with courtesy and respect. Drivers must not discriminate against any person because of a protected characteristic of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex

## **Taximeters (S 71 LG (MP) Act 1976)**

1. Any person who tampers with any seal on any taximeter without lawful excuse or alters any meter with the intent to mislead shall be guilty of an offence

## **Plying for Hire (S 45 TPC Act 1847)**

1. Private hire drivers must NOT pick up passengers who have not pre-booked with a private hire operator. Only Hackney Carriages may pick up un-booked fares.

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2. Private hire drivers must **NOT** offer or accept an offer for the immediate hire of a vehicle while it is being used.
3. Private hire drivers must **NOT** “rank up” outside of nightclubs, public houses, in lay-bys, in residential areas or anywhere where they are likely to attract un-booked fares.
4. Private hire drivers must **NOT** park or wait on any Hackney Carriage Rank

### **Seatbelts – Carriage of Children (MV (Wearing of Seat Belt Regulations 1993))**

1. Drivers must at all times conform to the Motor Vehicle (Wearing of Seat Belt) Regulations, 1993 and any other legislation regarding the carriage of children, use of appropriate restraints/seatbelts for the age and weight of any child and where in the vehicle the child can be carried

### **Touting (S 167 Criminal Justice and Public Order Act 1994)**

1. Touting means approaching the public and inviting them to be carried for hire in your vehicle. No one must tout on any road or public place. It is a criminal offence for hackney carriage and private hire drivers or any other person to do so.

## **Council Policies – Drivers**

## **Appendix 2**

### **Driver Legislation Tests**

1. All new applicants will be required to successfully undertake a driver legislation and knowledge test prior to being considered for a licence. The initial test is currently included in the licence fee; however any repeat tests will have to be paid for by the applicant.

## Appendix 2

### Criminal Record Checks

2. All applicants will be required to undertake a Disclosure and Barring Service (DBS) enhanced “taxi driver” check, at their own expense as part of the application process. **Drivers will be required to subscribe to the Update Service**

### Driving Assessment

3. All applicants for Driver Licences are required to successfully undertake an approved taxi driving assessment prior to being considered for a licence.

### Medicals

4. Medicals to Group 2 standard are required for every driver on first application and then every 5 years from the age of 45 years. After the age of 65 years they are required annually. More regular medicals may be required dependent on new and existing medical health. Drivers should report any changes to their medical health to the Licensing Office at the first opportunity following diagnosis of the medical condition or illness. In certain instances, the applicant or driver will be referred to the Licensing Committee.

### Training and Qualifications

5. **The Council does not currently require drivers or new applicants to undertake formal qualifications however this will be kept under review. Drivers are encouraged to access driver training courses that will increase the professionalism of the role.**
6. The Council will encourage drivers to undertake disability awareness training. Such training will be mandatory for all drivers of wheelchair accessible vehicles. **When a locally developed on-line course has been approved, this training will be required for all drivers.**
7. The Council will require all applicants for driver licences and private hire operator licences to undertake Child Sexual Exploitation Awareness Training. All existing

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licence holders will be required to produce a certificate confirming that they have undertaken the training prior to the renewal of their licence

## Private Hire Driver Licence Conditions

## Appendix 3

### PD1. Animals

Drivers must not carry any animals in their vehicle other than those belonging to or in the care of your passenger(s). Any animal belonging to or in the care of any passenger should be carried in the rear of the vehicle only (except for assistance dogs who are not restricted to the rear of the vehicle).

### PD2. Change of Address

Drivers must notify the Council in writing, of any change of address during the period of the licence within 7 days of such a change taking place.

### PD3. Conduct of Driver

Drivers must always:

- a) Assist passengers with their luggage. This includes picking it up from the point of booking, removing it from the vehicle at the end of the journey and, if requested, setting it down at the passenger's request.
- b) Be clean and respectable in dress (see driver dress code).
- c) Be polite and behave in a civil and orderly manner.
- d) Take all reasonable steps to ensure the safety of passengers while they are entering, travelling in or leaving the vehicle.

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- e) Offer assistance to elderly, infirm or disabled passengers.

Drivers must not:

- a) Smoke (or VAPE) in the vehicle at any time (including the use of e-cigarettes or other nicotine delivery devices)
- b) Drink or eat in the vehicle at any time while carrying passengers (best practice is for rest periods to be taken away from the vehicle).
- c) Play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle without the consent of the passenger.
- d) Cause or allow the noise emitted by any radio or other previously mentioned equipment in the vehicle to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle (Windows should remain closed if you are engaged in this activity)
- e) Engage in any activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council.

### **PD4. Convictions**

The driver shall within seven days of conviction/caution disclose to the Council in writing details of any conviction or caution (including motoring offences and fixed penalty tickets) imposed on him during the period of the licence.

### **PD5. Driver's Badge**

A driver shall at all times when acting in accordance with the driver's licence granted to him wear such a badge in such position and manner as to be plainly and distinctly visible



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### **PD6. Deposit of Licence**

Drivers must give their private hire driver licence to the owner of the private hire vehicle which they will be driving. (S)he will keep this licence while they are employed by him/her.

### **PD7. Equal Opportunities**

Drivers must at all times treat passengers or any potential passenger with courtesy and respect. Drivers must not discriminate against any person because of **a protected characteristic of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex**

### **PD8. Fare to be Demanded**

Drivers must not demand a fare greater than previously agreed for with the passenger and the operator. If a taximeter is in use only the fare displayed may be charged

### **PD9. Lost Property**

When passengers have been dropped off the driver must check the vehicle for any property accidentally left there. If any is found it must be returned to the passenger or handed into a police station as soon as possible and no later than the end of that shift.

### **PD10. Medical Condition**

The Council must be notified, in writing at the earliest opportunity and in any case within 14 days of any deterioration in the driver's medical condition that may affect their ability to drive private hire vehicles

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**PD11. Passengers**

Drivers must not

- a) carry more passengers in their vehicle than is permitted by the vehicle licence
- b) carry more than one person in the front seat unless the vehicle is furnished with a bench type front seat 1270 mm or more in length between the doors and provided with seat belts for all front seat passengers. In this case no more than 2 passengers may be carried
- c) without the consent of the hirer, carry any additional person in the vehicle.

**PD12. Prompt Attendance**

Drivers must always pick up passengers on time unless unavoidably delayed.

**PD13. Receipts**

The Driver must, if requested, provide the passenger(s) with a written receipt for the fare paid including the amount of VAT (if applicable) shown separately if so requested. The Driver should provide details of the journey including the date, fare, vehicle, operator and name of driver and sign the receipt

**PD14. Taximeters in PHVs**

If the private hire vehicle is fitted with a meter the driver:

- a) Must not cancel or conceal the fare recorded until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless credit is to be given).

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b) Must ensure that when the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter must show no fare at any time.

c) Must ensure that the meter is sufficiently illuminated when in use and is visible to all passengers.

d) Must ensure that the meter is only brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey.

e) Must ensure that the fare charged does not exceed the fare displayed on the meter at the end of the journey.

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## Hackney Carriage Driver Byelaws

## Appendix 4

### 1. Animals

Drivers must not carry any animals in their vehicle other than those belonging to or in the care of your passenger(s). Any animal belonging to or in the care of any passenger should be carried in the rear of the vehicle only (except for guide, hearing or assistance dogs who are not restricted to the rear of the vehicle).

### 2. Change of Address

Hackney Carriage drivers must inform the Council, in writing, within 7 days of any change of address.

### 3. Conduct of Driver

#### Drivers must always:

- a. Assist passengers with their luggage. This includes picking it up from the point of booking, removing it from the vehicle at the end of the journey and, if requested, setting it down at the passenger's request.
- b. Be clean and respectable in dress (see driver dress code).
- c. Be polite and behave in a civil and orderly manner (NB this includes not engaging in any activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council).
- d. Take all reasonable steps to ensure the safety of passengers while they are entering, travelling in or leaving the vehicle.

## Appendix 2

- e. Offer assistance to elderly, infirm or disabled passengers

### **Drivers must not:**

- a. Smoke in the vehicle at any time (including the use of e-cigarettes or other nicotine delivery devices)
- b. Drink or eat in the vehicle at any time while carrying passengers best practice is for rest periods to be taken away from the vehicle).
- c. Play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle without the consent of the passenger
- d. Cause or allow the noise emitted by any radio or other previously mentioned equipment in the vehicle to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle. (Windows should remain closed if you are engaged in this activity).

### **4. Convictions**

The Drivers shall within seven days of conviction/caution disclose to the Council in writing details of any conviction or caution (including motoring offences and fixed penalty tickets) imposed on him during the period of the licence.

### **5. Driver's Badge**

Hackney Carriage drivers shall, at all times when driving a Hackney Carriage while carrying passengers or while plying for hire, wear the driver's badge provided by the Council on the breast of the outer clothing and in such position and manner as to be plainly and distinctly visible.

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### **6. Insurance**

The proprietor or driver of the Hackney Carriage shall ensure that all times when the Hackney Carriage is available for hire or hired it is insured for public use hire.

### **7. Prompt Attendance**

Drivers must always pick up passengers on time unless unavoidably delayed.

### **8. Receipts**

The Driver must, if requested, provide passenger(s) with a written receipt for the fare paid including the amount of VAT (if applicable) shown separately if so requested. (This should show details of the journey including the date, fare, vehicle, operator and driver and be signed by the driver).

### **9. Passengers**

The driver of a hackney carriage must not:

- a. Carry more passengers in the vehicle than is permitted by the vehicle licence.
- b. Without the consent of the hirer, carry any additional person in the vehicle.
- c. No child aged 10 years or less is permitted to travel in the front seat of a Hackney Carriage unless an infant of two years or less is conveyed in a child safety cot approved for this purpose by the British Standards Institute (or such body which succeeds to and carries out the functions of the aforesaid Institute) securely affixed to the front passenger seat

### **10. Taximeter Fares**

The driver of a hackney carriage must:

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- a. As soon as the hackney carriage is hired must always bring into action the machinery of the taximeter.
- b. Ensure that the meter shows the rate of fare approved by the Council.
- c. Ensure that the fare recorded on the meter is clearly visible to passenger(s).
- d. Never charge more than the fare shown on the meter. The driver may charge less than this rate by agreement with the passenger(s).
- e. If a fare has been pre-arranged must compare it to the metered fare and charge the lesser of the two

### **11. Taxi Ranks**

When plying for hire in any street a hackney carriage driver must:

- a. Proceed with reasonable speed to one of the ranks.
- b. On arrival at a rank which is occupied by the maximum permitted number of vehicles to occupy it, proceed to another stand.
- c. On arrival at a rank which is not occupied by the maximum permitted number of vehicles to occupy it, place the vehicle immediately behind the carriage or carriages on the rank, facing in the direction designated by the Byelaw for that rank.
- d. From time to time when the Hackney Carriage in front is driven off or moved forward, move forward so as to fill the place previously occupied by the vehicle in front.
- e. Never leave a Hackney Carriage unattended on a rank.

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**12. Horse Drawn Vehicles**

The proprietor or driver of a horse drawn Hackney Carriage shall:

- a. While standing or plying for hire, not drive or allow to be driven or harnessed to the carriage any animal in such a condition as to expose passenger or pedestrian to risk of injury.
- b. While standing or plying for hire, cause every part of the harness of the animal or animals to be properly and securely attached to the carriage and under due control.
- c. Not in any street, feed or allow to be fed, an animal harnessed or otherwise attached to such a carriage, except with food contained in the proper bag or other receptacle suspended from the head of such animal or from the centre pole of the carriage or which is held in and delivered with the hand of the person feeding such horse.



## Appendix 2

### Code of Good Conduct for Licensed Drivers

### Appendix 5

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

#### Responsibility to the Trade

Licence holders shall endeavour to promote the image of the Hackney Carriage and Private Hire Trade by:

- a. Complying with this Code of Good Conduct.
- b. Complying with all the Conditions of their Licence and the Councils Hackney Carriage and Private Hire Licensing Policy
- c. Behaving in a professional manner at all times

#### Responsibility to Clients

Licence holders shall:

- a. Maintain their vehicles in a safe and satisfactory condition at all times;
- b. Keep their vehicles clean and suitable for hire to the public at all times;
- c. Attend punctually when undertaking pre-booked hiring;
- d. Assist, where necessary, passengers into and out of vehicles;
- e. Offer passengers reasonable assistance with luggage

#### Responsibility to Residents

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

- a. Not sound the vehicle's horn.
- b. Keep the volume of any audio system to a minimum.
- c. Switch off the engine if required to wait.

## Appendix 2

- d. Take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.
- e. Not deposit any litter.
- f. Not urinate in the street.

At hackney carriage ranks and other places where hackney carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:

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

## General

Driver shall:

- a. Pay attention to personal hygiene and dress in accordance with the Dress Code.
- b. Be polite, helpful and respectful to passengers.
- c. Drive with care and due consideration for other road users and pedestrians
- d. Obey all Traffic Regulation Orders and directions at all time;
- e. Ensure they do not smell of alcohol or consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle.
- f. Not drive while having used or misused legal or illegal drugs which may affect their ability to drive.
- g. Behave in a civil and orderly manner at all times.
- h. Not engage in any dialogue or activities of a sexual nature whilst acting as a driver of any vehicle licensed by this Council. This includes inappropriate touching of passengers.
- i. Not smoke, VAPE or use any alternative device such as an e-cigarette (or heated tobacco delivery devices) whilst the vehicle is used for the purpose for which it is licensed including the carriage of or whilst waiting for a fare

Please Note:

Any amount of alcohol or drugs can affect a driver's judgement. The council will take a very serious view of any driver being found to have consumed any alcohol or having misused any drugs prior to or whilst in charge of a licenced vehicle.

On those occasions where the Council has reason to suspect that a driver may be abusing drugs or alcohol, the driver shall undertake drug or alcohol tests as required by the Council,

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at the authority's expense, within a reasonable period of time or, if considered necessary by the Council, as quickly as practicable.

**Driver's Dress Code**

Appendix 6

1. The purpose of a driver's dress code is to seek a standard of dress that provides a positive image of the hackney carriage and private hire trade in Darlington to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

**Acceptable Standard of Dress**

2. As a minimum standard, males should wear either long legged trousers or knee length shorts and T shirts which have a full body and short sleeves. Females should wear either long legged trousers or knee length shorts or skirt or dress and T shirts which have a full body and short sleeves.

**Footwear**

3. Footwear for all drivers shall fit around the heel of the foot.

**Unacceptable Standard of Dress**

4. The following are deemed to be unacceptable:
  - a. Clothing that is not kept in a clean condition, free from holes and rips.
  - b. Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
  - c. Sportswear (e.g. football/rugby kits, track suits, beach wear etc.).

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- d. Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
  
- e. Drivers not having either the top or bottom half of their bodies suitably clothed.

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### Relevance of Convictions, Cautions, Reprimands, Fixed Penalties, Warnings and Complaints

1. Darlington Borough Council uses the following guidelines to make fair and consistent decisions when considering applications for driver and operator licences from applicants who have criminal convictions, conditional/unconditional cautions, reprimands, or when dealing with other information revealed during the application process. In doing so we have a clear objective to protect the public at all times.
2. In applying these guidelines, the Council will consider its responsibility with regard to safeguarding the public and, in particular, children and vulnerable adults. The Council must be confident that the applicant is a fit and proper person.
3. The Local Government Association encourages Councils to take a strong stance on indecency offences such as those relating to rape, sexual assault and Child Sexual Exploitation.
4. In considering any applicant with criminal convictions, conditional/unconditional cautions, reprimands, warnings or where they have been interviewed under caution and offered an alternative sanction to prosecution, the Council will take into account the number and type of offences etc., any patterns of criminality and apply a totality principle to applicants with such convictions, cautions and reprimands.
5. The issuing and holding of a licence is a privilege not a right and persons who hold a licence are expected to conduct themselves in a manner that does not bring their profession or the Council into disrepute.
6. These guidelines also apply to existing holders of such licences. The Council will consider it extremely serious when existing holders of licences receive criminal convictions, cautions, reprimands or warnings or receive complaints which result in disciplinary action.

## Appendix 2

7. Existing holders of licences who commit criminal offences or receive complaints about their behaviour which result in disciplinary action may expect the Council to consider revoking their licence.
8. The Council uses the Enhanced Disclosure service from the Disclosure and Barring Service to determine the suitability of applicants for Hackney Carriage and Private Hire Driver Licences.
9. The Council will comply fully with the DBS Code of Practice and the requirements of the Data Protection Act and General Data Protection Regulations (GDPR.) Disclosure information will be used fairly, stored securely and only be handled by authorised persons. Please see guidance information on “Handling, Storage and Use of Disclosure Information Received from the DBS” for further information.  
<https://www.gov.uk/government/publications/handling-of-dbs-certificate-information/handling-of-dbs-certificate-information>

### General

10. Every application or case will be decided on its own merits. The Council will endeavour to make consistent decisions but is not bound by or obliged to follow previous decisions made in relation to the holders of licences.
11. A person with a current conviction, caution, reprimand or final warning need not be permanently barred from obtaining a licence, but there will be an expectation that applicants will be expected to remain free from conviction for up to 5 years, according to the circumstances, before an application is entertained. However any person on the DBS Barred List will be refused a licence.
12. Where periods free from further convictions is stipulated, Members will treat this as a minimum standard.
13. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Whilst, the Council may exercise its discretion, the overriding consideration will be the protection of the public. The following examples, afford a general guide on the action to be taken where convictions, cautions, reprimand or final warnings are admitted.

Appendix 2

Minor Traffic Offences

14. Convictions, cautions, reprimands or final warnings for minor traffic offences will not prevent a person from being considered for a licence. If an applicant has up to six "live" penalty points on their driving licence for such offences then the application may be granted subject to a written warning.
  
15. If an applicant has 9 or more points on their licence the application will be referred to the Council's Licensing Committee who may decide to refuse the application. At the very least a warning will be given that further offences may result in revocation of the licence and the applicant may be required to attend a Driver Improvement Course. Applicants should note that this Council does not deem speeding to be a minor offence and the receipt of more than 3 penalty points for a speeding offence may be referred to the Council's Licensing Committee.

Major Traffic Offences

16. Major traffic offences include those on the attached list of offences that have the following codes:

DVLA CODE	DESCRIPTION OF OFFENCE
AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
BA10	Driving whilst disqualified by order of court
BA30	Attempting to drive while disqualified by order of court
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving with alcohol level above the limit
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen or analysis
DD40	Dangerous driving

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DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
IN14	Causing or permitting the use of a vehicle uninsured against third party risks
UT50	Aggravated taking of a vehicle
TT99	To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified

17. The Council appreciates there is a difference in the level of seriousness of these offences and will consider each on its merits. Although offences of excess speed do not appear in the table above the Council considers such offences to be extremely serious and drivers with such offences may be referred to Committee.

18. If an applicant has a live endorsement in respect of a major traffic offence then the application will be referred to the Licensing Committee and may be refused until at least 3 years after the most recent conviction, caution, reprimand or final warning. In the case of a licensed driver it will ordinarily result in the licence being revoked.

19. Should the Courts decide not to disqualify a driver under the totting up procedures the Council may still consider that the driver is not a fit and proper person and may consider revocation of the private hire and/or hackney carriage driver licence.



## Appendix 2

### Alcohol Related Offences

20. A person who has been disqualified from driving as a result of a drink driving offence must show at least **7 years** free from conviction after the restoration of their driving licence before their application will be considered. More than one conviction of this type would usually result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.

### Drug Offences

21. An applicant with a conviction, caution, reprimand or final warning for a drug related offence will be required to show a period of at least 10 years free of a conviction, caution, reprimand or final warning before an application is considered, or 7 years after detoxification treatment if the applicant is an addict.
22. If the conviction, caution, reprimand or final warning relates to supplying, possession or manufacture of controlled drugs or substances with the intent to supply then it is unlikely that the application will be granted. In the case of a licensed driver it will ordinarily result in the licence being revoked.
23. More than one conviction, caution, reprimand or final warning for a drug related offence will ordinarily result in an application being refused or a licence revoked.

### Sexual Offences

24. Applicants with a conviction, caution, reprimand or final warning for indecent exposure, indecent assault, importuning or any sexual offence, will ordinarily be refused a licence. In the case of a licensed driver it will ordinarily result in the licence being revoked.
25. In exceptional circumstances an application may be considered on its merits when the applicant can show a substantial period free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning.

## Appendix 2

26. Where a conviction has resulted in a custodial sentence being imposed, an application will ordinarily be refused. This will also apply if a custodial sentence was suspended.
27. More than one conviction, caution, reprimand or final warning for indecent exposure, indecent/sexual assault, importuning or any other sexual offence, will ordinarily result in an application being refused or a licence revoked.
28. Any person on the DBS Barred List will be refused a licence.

### Violence

29. Applicants with a conviction, caution, reprimand or final warning for actual bodily harm, grievous bodily harm, wounding, assault, or possession of a dangerous weapon etc. will as a rule be refused a licence. An application may be granted if the applicant can show at least **10 years** free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning or **10 years** from completion of any custodial sentence imposed, whichever is the latter.
30. More than one conviction caution, reprimand or final warning for violence will ordinarily result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.
31. The Council deems incidents of domestic violence to be extremely serious because if an individual is prepared to assault an individual in a domestic or home environment then there would be concerns over that person's ability to control their temper when working in an environment dealing with members of the public.
32. More than one conviction caution, reprimand or final warning for any offence involving domestic violence will ordinarily result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.

### Dishonesty

## Appendix 2

33. Applicants with a conviction, caution, reprimand or final warning for an offence involving dishonesty will be refused a licence. An application may however be considered where the applicant can show at least **7 years** free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning or **7 years** from completion of any custodial sentence imposed, whichever is the later.
34. More than one conviction caution, reprimand or final warning for any offence involving dishonesty will ordinarily result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.

### Public Order Offences

35. Applicants with a conviction, caution, reprimand or final warning involving public order offences such as affray, fear or provocation of violence, criminal damage etc. will have their application referred to the Licensing Committee for consideration and will usually be refused a licence. An application may however be considered where the applicant can show at least **5 years** free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning or **5 years** from completion of any custodial sentence imposed, whichever is the later.
36. More than one conviction caution, reprimand or final warning for any public order offence will ordinarily result in an application being refused. In the case of a licensed driver it will ordinarily result in the licence being revoked.
37. Any offence that has been deemed to be aggravated due to discrimination of any kind will not be granted a licence until at least 7 years have elapsed since the completion of any sentence imposed.
38. Any conviction, caution, reprimand or final warning which results from an offence committed by any person while working as a Hackney Carriage or Private Hire Proprietor, Driver or Operator is regarded as extremely serious and will ordinarily lead to a licence being revoked or an application to renew the licence being refused.

## Appendix 2

### Cautions

39. The Council requires applicants to reveal any cautions they may have received. The Council acknowledges that a caution is not a conviction and therefore does not carry as great a weight.
40. The Council notes that an admission of guilt is required before a caution can be administered and that the police must have sufficient evidence to proceed with a prosecution if the offer of a caution is refused.
41. The Council may take into account any diversion scheme offered as an alternative to conviction (i.e. restorative approaches)

### Fixed Penalties

42. Fixed penalties are not limited to motoring offences and may be given for a range of offences including shop theft, minor public order offences and offences such as littering, dog fouling etc.
43. Fixed penalties and attendance of speed awareness courses must be declared to the Council in the same way as offences and may be taken into consideration as part of the Council's disciplinary procedures.

### Licensing Offences

44. Convictions for offences or any failure to comply with the provisions of the Town Police Clauses Act or the relevant part of the Local Government (Miscellaneous Provisions) Act 1976, or the Council's Byelaws will be viewed seriously by the Council. The following examples afford a general guide to what action the Council may take in relation to existing Hackney Carriage and Private Hire licence holders.

### Proprietor Offences

45. Any person convicted, cautioned, reprimanded or given a final warning of an offence relating to a hackney carriage or private hire vehicle of which they are the proprietor may have their licence(s) suspended or revoked.

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### Driver Offences

46. Any person convicted, cautioned, reprimanded or given a final warning of an offence whilst acting as the driver of a hackney carriage or private hire vehicle may have their driver licence(s) revoked.

### Operator Offences

47. Any person convicted, cautioned, reprimanded or given a final warning for an offence relating to their operation of private hire vehicles or drivers may have their private hire operator's licence suspended or revoked.
48. Should the Council choose to take action short of revocation then more than one such conviction, caution, reprimand or final warning will ordinarily lead to the licence being revoked.

49. Where an applicant has not lived in the UK (including all foreign nationals, and EEA citizens) for a continuous six year period at the time of the application, an enhanced DBS disclosure in itself will usually be insufficient to satisfy the Council that the applicant is a fit and proper person. This is because the DBS does not routinely provide criminal record information from non UK countries. These applicants will be required to provide a Certificate of Good Conduct or an equivalent document, translated into English by an approved, recognised body, from each country where they have been living. (Awaiting government guidelines re Brexit)

50. Foreign Police Checks must be dated no more than three months prior to an applicant leaving their home country. If the document is not in English, it must be accompanied by a certified translation.

51. Details of how to obtain such a check from the relevant authorities abroad are available online at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

52. If the country concerned is not listed, please contact the relevant embassy or consulate for further details. Contact details can be found online at:

<https://www.gov.uk/government/publications/foreign-embassies-in-the-uk>

53. As a minimum, all applications will require full name, date of birth, current address and previous addresses in the country of origin.

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Legislation – Vehicles

Appendix 9

Accidents and damage to Vehicles (Sec 50 LG (MP) Act 1976)

54. If a hackney carriage or private hire vehicle is involved in an accident which results in damage which may affect its appearance or the safety of its passengers the proprietor must report this to the Council within 72 hours.

Authorised Officers (Sec 73 LG(MP) Act 1976)

55. It is an offence to obstruct any Authorised Officer or Police Officer. All Licensees must provide any assistance or information (s)he may reasonably require.

Change of Address (Sec 50 TPCA 1847)

56. The Council must be informed, in writing, within 7 days of any change of address.

Convictions (Sec 50 TPCA 1847)

57. A second conviction against a driver or proprietor for any hackney carriage or byelaws offence is grounds for the Council to suspend or revoke a licence. If a driver or proprietor is convicted of any criminal or motoring offence (including fixed penalties) (s)he must notify the Council, in writing, within 7 days.

Copy of Licence (Sec 46, 48 and 49 TPCA 1847)

58. The proprietor must keep the hackney carriage driver licences of all drivers employed by them in their possession. When a driver leaves this employment the proprietor must return the licence to him/her. Any driver of a Hackney Carriage must be licensed even if the vehicle is not being used for public hire. Private hire operators must keep the private hire driver licences of all drivers operated by them in their possession. When a driver is no longer operated by the Private hire operator the licence should be returned to him/her. Any driver of a private hire vehicle must be licensed even when the vehicle is not being used for private hire.

Appendix 2

Insurance (Sec 50 LG(MP) Act 1976)

59. Proprietors of hackney carriages and/or private hire vehicles must produce a certificate of insurance or cover note when asked by an Authorised Officer.

Licence Plates (Byelaws and Sec 58 LG(MP) Act 1976)

60. The Council's identification plate(s) must not be defaced or displayed in such a way that they are concealed from public view. If the Council suspends or revokes a hackney carriage licence or the licence expires and is not renewed the proprietor will be asked to return the identification plate(s) within 7 days.

Meter/Table of Fares (Byelaw)

61. Hackney Carriages must be fitted with an accurate meter capable of showing that the vehicle is or is not hired, registering the charge if hired and positioned in clear view of the passengers.
- a. the meter must be linked to a sign bearing the word TAXI which shall be illuminated where the meter is not in use and cease to be illuminated when hiring has begun.
  - b. a notice showing the Tariff of fares set by the Council must be displayed inside the vehicle in a position where any passengers can easily read it.

Transfer of Ownership of Licensed Vehicle (Sec 49 LG(MP) Act 1976)

62. The Council must be informed, in writing, of the transfer of ownership of a licensed hackney carriage or private hire vehicle within 14 days of this change. On the transfer of a licensed vehicle to a new owner the new owner must complete all documentation required by the Council and produce evidence of insurance. Until the relevant documentation is accepted by the Council, the vehicle licence will be suspended.



Appendix 2

Council Policies – Vehicles

Appendix 10

Age of Vehicle

63. Darlington Borough Council places a limit on the age of vehicles that may be licensed. Licences will only be issued to vehicles which are less than 4 years of age when first presented for licensing (or less than 6 years in respect of purpose built wheelchair accessible vehicles). The age of the vehicle will be determined by reference to its date of first registration.
64. The licence of any vehicle will terminate at the end of the licence period during which the vehicle reaches the age of 8 years (or 12 years in respect of purpose built wheelchair accessible vehicles).
65. This policy does not apply to limousines and vintage cars.

Documents

66. A vehicle Licence will only be issued where the vehicle has evidence of valid:
- a. Road Fund Tax online check.
  - b. Vehicle insurance certificate.
  - c. Public Liability insurance certificate.
  - d. Pass Certificate issued by Council's in house testing station.
  - e. MOT certificate
  - f. V5 vehicle registration document.
  - g. Swivel Seat base fitting certificate where required.
  - h. Meter calibration certificate
67. All documentation produced must be an original document

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68. Before or on the date of expiry, each certificate shall be produced together with the relevant renewal certificate to an Authorised Officer.

### Emission Tests

69. From September 2015 Euro VI became mandatory. **By 1st April 2023 all vehicles will be required to be Euro VI and no older than 8 years of age. Classic vehicles over 15 years of age will be considered on a case by case basis and this shall be kept under review.**

### Engine/Chassis Numbers

70. The Chassis/VIN plate and engine numbers must match the numbers recorded with the DVLA. Vehicle applications cannot be accepted without a copy of the vehicle registration document or, in the case of a new vehicle purchase, sales documentation indicating the engine and chassis numbers. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police who will undertake checks to ensure the vehicle is not stolen.

### Surrender and Grant of Licences

71. Vehicle licences are granted to vehicles, not to people. This means that a vehicle licence CANNOT be transferred from one vehicle to another. If a proprietor wishes to change the vehicle that is licensed the following procedures must be followed:

- a. (S)he must complete an application form for the "new" vehicle.
- b. (S)he must pay the stated fee for a 12 month period.
- c. (S)he must surrender the original licence.
- d. The new vehicle must be presented for test and subsequently pass.
- e. (S)he must produce evidence of insurance and all other required documentation.

72. Fees paid in relation to hackney carriage and private hire vehicle licences will be subject to a partial credit on the unexpired portion of the licence should the

## Appendix 2

proprietor choose to surrender their licence during the period of that licence. The amount of credit shall be determined by the Council and an administration fee will also be levied. Credit will only be allowed where:-

- a. The vehicle licence is surrendered correctly
- b. A request for credit has been made in writing
- c. The plates and licence have been surrendered
- d. The credit is used within the current financial year.

73. The credit is to be used only to offset the cost of a new vehicle licence

74. The total credit will be calculated as the licence fee minus the current administration fee, divided by 12 months multiplied by the whole months remaining on the licence.

75. Once surrendered the vehicle will not again be licensed by the Council unless it is under 3 years of age at the time the next application is made (or less than 5 years in respect of purpose built wheelchair accessible vehicles).

76. No cash alternative shall be offered at any time

### Taximeters

77. All vehicles fitted with a taximeter must comply with the Measuring Instruments (Taximeters) Regulations 2006 and must be of the calendar control type which is locked and sealed by an approved manufacturer/suppliers and/or installer. The calendar control type shall apply to all new vehicles.

### Use of CCTV

78. If CCTV is installed the proprietor of any vehicle with CCTV must notify the Council and display a sign approved by the Council advising passengers that a CCTV system is in operation in the vehicle.

79. The licence holder must ensure that the Information Commissioner's office has been informed to cover the purpose of its use.

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80. Where CCTV is in place it must be kept in working order when passengers are being carried. The CCTV system should be maintained to the manufacturer's standards, recordings should be retained for 28 days and must be made available for viewing by a Police Officer or an authorised officer of the Council on request.

81. The licence holder shall take all reasonable steps to ensure that there is no unauthorised access to data recorded on CCTV.

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## Appendix 2

### PV1. Advertisements

Private hire vehicles must not display signs using the words “TAXI”, “CAB” or “FOR HIRE”. No other signs, notices, advertisements or any other markings may be displayed on or in the vehicle without the prior written permission of the Council.

### PV2. Advertising on Private Hire vehicles

Any advertisement upon a Private Hire Vehicle requires the prior written approval of the Council. Approved advertisements may be placed on the rear quarter panel only and shall not extend to the boot or rear doors of the vehicle. **Rear bumper may be used to advertise company contact details. The background colour of the vehicle must not be changed to enhance the advertisement and it must be contained within a rectangular dimension no greater than (size to be determined.) Any vehicles that have current advertisements, which do not comply with these requirements will have until 1st April 2022 to make the necessary amendments.** Adverts shall be of a stick-on plastic film type material (magnetic panels will not be allowed). The following types of advertisement will be excluded:

- a) Any advertisement that it is felt likely to give rise to public offence
- b) Any advertising of gambling, alcohol, tobacco or e cigarettes or a “prohibited practice” as described by the Consumer Protection from Unfair Trading Regulations 2008
- c) Illuminated and/or fluorescent advertisements,
- d) Advertisements on or above roof level

Any approved advertisement that is later found to give rise to justifiable public offence. This shall immediately be removed upon the instruction of an authorised officer.

No other signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices shall be displayed in, on, or from the vehicle except as may be required by any statutory provision or required or permitted by these conditions

### PV3. Appearance of Vehicle

Private Hire Vehicles must NOT be red in colour. The vehicle must be approved by the Council and shall:

- a. Have at least four doors that can be opened from both inside and outside the vehicle.

## Appendix 2

- b. Be right-hand drive.
- c. Have an engine capacity of not less than 75 bhp or 1500cc.
- d. Have minimum seating capacity for at least four adult passengers and each seat shall not be less than 400 mm or 16 inches wide.
- e. Luggage must be properly secured in a vehicle which does not have a boot.
- f. Be wind and watertight.
- g. Have windows that can open on both sides of the vehicle.
- h. Have seats properly cushioned and covered
- i. Have a floor properly covered with carpet or other suitable covering.
- j. Have an adequate internal light to enable passengers to enter and leave the vehicle safely
- k. Have a spare wheel to fit the vehicle and equipment to change a wheel on the vehicle with that wheel e.g. a jack and wheel brace. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:
  - i. The carriage of passengers is not permitted whilst such a tyre is fitted
  - ii. The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.
  - iii. The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.
  - iv. Due to the speed restriction and the fact that the tyre compound is generally softer (to simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.
  - v. **Where a vehicle is manufactured without a spare wheel, the use of approved pressurised tyre sealants will be permitted**
- l. Be properly fitted with seat belts of approved design for every passenger the vehicle is licensed to carry.
- m. Be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the normal zone of vision ie the front windscreen 75 per cent light transmittance and the front door windows 70 per cent light transmittance. In addition the remaining glass within the vehicle shall have a minimum light transmittance of not less than 70 **30** per cent. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass (Policy).
- n. Not be a convertible
- o. Not be fitted with a roof sign
- p. Not be fitted with a roof rack

### PV4. Alteration of Vehicle

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The proprietor must not change the design, condition or appearance of the vehicle without first obtaining the written approval of the Council.

### PV5. Number of passengers to be carried

A proprietor or driver of a Private Hire Vehicle shall not convey or permit to be conveyed in the vehicle, any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage

### PV6. Change of Address

The proprietor shall notify the Council in writing (or electronically) of any change of address during the period of the licence within seven days of such change taking place

### PV7. Change of Engine

The proprietor must inform the Council, in writing (or electronically), within two working days of any change of the engine in the vehicle

### PV8. Change of Private Hire Operator

This vehicle may only be operated under the provisions of one Private Hire Operators Licence at any moment in time. The proprietor must notify the Council of any change in Private Hire Operator, in writing, using the Council's approved forms within two working days. The name of the "new" operator shall then be displayed on the outside of the rear doors of the vehicle.

### PV9. Cleanliness

The proprietor must ensure that the private hire vehicle is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

### PV10. Convictions

## Appendix 2

The proprietor shall within seven days disclose to the Council in writing (or electronically) details of any criminal or motoring convictions, fixed penalties and/or caution imposed, **attendance on speed awareness course** or, if the proprietor is a Company or Partnership, on any of the Directors or Partners during the period of the licence.

### PV11. Deposit of Driver Licence

If the Proprietor permits or employs any other person to drive the vehicle as a private hire vehicle, he shall before that person commences to drive the vehicle cause the driver to deliver to him his private hire driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his. Any person driving a private hire vehicle must be licensed, even if the vehicle is not being used for private hire purposes (also Section 46 (b) and (c) of LG (MP) Act 1976.

### PV12. Letting/Leasing of Vehicles

The proprietor shall not let or hire the vehicle identified in this licence to any other person, other than a fare paying passenger, without first notifying the Council in writing. NOTE: the proprietor will still be jointly responsible for the vehicle should a leasing arrangement be entered into.

### PV13. Licence Plates

- a. The rear identification plate, supplied by the Council, shall be securely fixed to the rear of the vehicle; in a conspicuous position approved by an authorised officer of the Council
- b. The front identification plate shall be securely fixed to the front of the vehicle in a conspicuous position approved by an authorised officer of the Council

### PV14. Loss/Theft of Plate or Licence

The proprietor must report the loss/theft of licence or identification plate(s) to the Licensing Office as soon as the loss becomes known and in any case, within 2 working days. A lost property/crime number must be obtained from the Police and details of this given to the Council.



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### PV15. Meter/Table of Fares

All vehicles fitted with a taximeter must comply with the Measuring Instruments (Taximeters) Regulations 2006 and must be of the calendar control type which is locked and sealed by an approved manufacturer/suppliers and/or installer. The meter must:

- a. Be installed into the vehicle in a suitable and secure manner at all times
- b. Be accurate, be capable of showing that the vehicle is or is not hired, register the charge if hired and be positioned in clear view of the passengers
- c. Be sufficiently illuminated when in use and visible to all passengers.
- d. Only be brought into action and the fare or charge must only commence from the point at which at which the hirer starts his/her journey.
- e. The fare charged must not exceed the fare displayed on the meter at the end of the journey.
- f. When the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter must show no fare at any time.
- g. A notice showing the Tariff of fares must be displayed inside the vehicle in a position where any passengers can easily read it.

No one must tamper with any seal on the meter without lawful excuse or alter any meter with the intent to mislead. Legislation - Section 71 LG (MP) Act 1976.

### PV16. Safety Equipment

The vehicle must always carry in a conveniently and readily accessible position:

- a. A suitable and efficient multipurpose dry powder fire extinguisher or Aqueous Film Forming-Foam (AFFF) fire extinguisher should be secured in the boot of the vehicle as recommended by the Fire Authority. (Where the extinguisher is to be used in an eight-passenger seat vehicle, which does not have a boot it is recommended that a AFFF fire extinguisher is used. If a dry powder extinguisher is activated in a vehicle the powder may cause loss of vision).
- b. The Private Hire Proprietors licence number shall be painted upon the extinguisher, using indelible black ink, in letters at least 10 mm high.
- c. A first aid box, suitable for passenger carrying vehicles, must be available in the vehicle for use by a suitably trained person to provide emergency aid at an incident, (there is no expectation that a licensed driver without first aid training would do this.) The first aid kit should be in a suitable airtight container marked with a white

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cross on a green background. The container must be clearly marked in indelible black ink with the vehicle licence number and must contain the following:

- 1 x first aid guidance leaflet
- 1 x sterile wound dressing (7.5cm x 4.5cm)
- 24 x assorted adhesive dressings
- 2 x pairs disposable gloves
- 3 x sterile ambulance dressings
- 2 x sterile eye pads
- 10 x antiseptic wipes (alcohol free)
- 2 x triangular bandages non-woven
- 12 x safety pins
- 1 x pair rust free blunt ended scissors

### PV17. Signs and Notices

No illuminated or fluorescent sign or advertisement shall be displayed on the inside or outside the vehicle. No sign or advertisement shall be placed on, or above the roof level.

For the purpose of identification of 8 passenger seat vehicles as licensed Private Hire vehicles the proprietor may:

- a. With the written approval of the Council fix to the top inside corner of the passenger side front windscreen a self-adhesive notice no larger than 100mm high and 460 mm wide. The notice shall have a white background and include only the name of the operator of the business in black letters of a maximum size 60 mm in height and also the words "PRIVATE HIRE VEHICLE" or "PRIVATE HIRE ONLY " in black letters of a minimum 25 mm in height;
- b. With the written approval of the Council notices may be displayed upon the external bodywork of 8 seated minibuses giving the trade name and telephone number of the operator on the front, rear and sides of the vehicle, with the following specification:

## Appendix 2

- all letters and numbers shall be, all black or all white in colour and no greater than 75 mm high and painted directly upon the vehicle, or printed on self-adhesive plastic film;
- the area of display for the words and number must be limited in size;
- front and rear - 630 mm wide x 75mm high;
- sides - 2000 mm x 300 mm;
- each separate notice shall include the words "PRIVATE HIRE ONLY" in a prominent position in capital letters 25 mm high

The design for each of these notices (a) and (b) above must not be used until a sample has been submitted to the Council and approved in writing.

For the purpose of identification of a Saloon Private Hire Vehicle the proprietor:

- a. Shall fix to both rear doors a notice that has the words "PRIVATE HIRE ONLY" in capital letters 25 mm high. The letters shall be coloured black or white. The background colour of the notice shall contrast with both the lettering printed upon it and the vehicle colour. This notice shall be a maximum size 630 mm x 300 mm and be designed to include the name of the operator and telephone number.
- b. May fix to the top inside corner of the passenger side front windscreen of the vehicle a notice no larger than 100mm high and 460 mm wide. The notice shall have a white background and only include the name of the operator of the business in black letters of a maximum size 60 mm in height and the words "PRIVATE HIRE ONLY" or "PRIVATE HIRE VEHICLE" in black capital letters minimum size 25 mm in height.

Note: The design for each of these notices (a) and (b) above must not be used until a sample has been submitted to the Council and approved in writing

NB Magnetic fixing of any signage is not permitted

### PV18. Sliding Doors

Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in

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motion and carrying passengers. The opening and closing mechanism shall not be altered so as to prevent the doors from locking into the open position

### PV19. Swivel Seats

Where fitted as a passenger seat, certificates of fitting from an authorised fitter must be obtained and produced to the Council before a vehicle can be tested and/or licensed.

### PV20. Wheelchair Accessible Vehicles (WAVs)

Where a vehicle is built or adapted to carry wheelchairs which permit the wheelchair user to remain in their wheelchair throughout the journey, the proprietor and/or driver shall ensure that:

- a. the wheelchair is positioned in the vehicle so as to permit the passenger to face forwards or rearwards, and
- b. the wheelchair is secured using the correct restraint system which is permanently secured to the vehicle, and
- c. the passenger is secured by an appropriate 3 point seat belt which is permanently secured to the vehicle and not by the wheelchair's lap belt
- d. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.

**Any wheelchair ramps, wheelchair securing straps, wheelchair seatbelt extensions and any other equipment necessary for the safe transportation of wheelchair users must be kept in the vehicle at all times.** Such equipment must be of the correct type for the vehicle in which it is being carried and must at all times be in a safe, serviceable and clean condition. Any such equipment must be permanently marked with the registration number of the vehicle in which it is carried

Appendix 12

Additional Policy and Standard Conditions for Limousines, Novelty Vehicles and Executive Hire

## Appendix 2

These conditions are IN ADDITION to the standard Private Hire Vehicle conditions except where stated.

### Interpretation

1. For the purpose of licensing by the Council a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres (120 inches) to extend the length of the vehicle. The vehicle shall be capable of carrying up to (but not exceeding) eight seated passengers. Each passenger seating area will be at least 400 millimetres wide.
2. The nature of limousines is such that it is unlikely they will comply with the Council's age policy and will therefore be deemed to be exempt from the policy.
3. Consideration will be given to the licensing of "novelty" vehicles e.g. fire engines on an individual basis.
4. Applications for exemptions from standard conditions will be considered in respect of executive, chauffeur driven vehicles.

### Policy

#### Documentation

5. The following documentation in original form or certified copies (not photocopies) shall be produced prior to licensing:
  - a. Completed importation documentation – Single Vehicle Approval (SVA).
  - b. A Qualified Vehicle Modifier certificate – (QVM). This is issued by the Coach Builder.
  - c. DVLA registration document (V5).
  - d. Insurance documents covering Hire and Reward, Public Liability insurance and, where drivers other than the proprietor are used, Employer Liability insurance.
  - e. Vehicle test certificate (inspection carried out and certificate issued by the Council's in-house testing station) NB The compliance inspection is carried out at six monthly intervals.
  - f. Vehicles converted to run on LPG must produce an installation certificate from a LPGA approved UK vehicle conversion company.
  - g. Documentation to show the overall weight of the vehicle (as displayed on the vehicle)

### Conditions for Limousines, Novelty Vehicles

Appendix 2

LN1. Appearance of Vehicle (NB this replaces condition 3 of PH Vehicles)

The proprietor shall ensure that the limousine is of a type approved by the Council.

- a. The maximum length of the vehicle "stretch" shall not exceed 120 inches (3048 millimetres).
- b. The vehicle should be equipped with a minimum of four road wheels and one full sized spare wheel. The tyres shall be of an approved rating as specified by the manufacturer i.e. 235/75R 15 108S (BF Goodrich Extra Load or equivalent). Vehicles produced since 1998 should be fitted with 225/70R 16 107T (Reinforced.)

In addition tyres on the same axle must be of the same nominal size and aspect ratio

- c. The front windscreen shall allow 75% light transmittance and the front driver and passenger windows shall allow 70% light transmittance. (Construction 7 Use Regulations 1986).
- d. No self-adhesive material (tinted or clear) shall be affixed to any part of the glass without the prior written approval of the Council.
- e. The interior of the vehicle must be kept wind and watertight.
- f. The seats in the passenger compartment must be kept properly cushioned and covered.
- g. The floor in the passenger compartment must be provided with a proper carpet, mat or other suitable covering
- h. There must be adequate internal light to enable passengers to enter and leave the vehicle safely.
- i. The internal fittings and furniture of the limousine must be kept in a clean, well-maintained condition and in every way fit and safe for public use.
- j. Facilities must be provided for the conveyance of luggage safely and protected from inclement weather.
- k. The vehicle must have at least two doors for use of persons conveyed in limousine and a separate means of ingress and egress for the driver.
- l. The exterior of the limousine must be kept in a clean condition especially during inclement weather.
- m. Facilities must be provided to ensure that any person travelling in the limousine can communicate with the driver.

LN2. Exemption Notice (also Section 75(3) LG (MP) Act 1976)

## Appendix 2

The Council will issue a written notice that exempts the vehicle from having to display identification plate(s). This notice must be carried in the vehicle at all times and be available for inspection on request by an Authorised officer of the Council or a Police Officer.

### LN3. Licence Plates NB Replaces (a) to (c) of Condition 11 for PH Vehicles

- a. The proprietor of the limousine shall ensure the identification plate(s) is maintained and kept in such condition so that the information contained on the identification plate is clearly visible at all times.
- b. The identification plate shall remain the property of the Council at all time and shall be carried in the limousine so as to be easily removed or inspected by an Authorised Officer of the Council or Police Constable.
- c. The vehicle will display the licence identification card issued by the Council in the windscreen of the vehicle, where it can be easily seen by persons outside of the vehicle.

### LN4. Passengers

- a. The limousine shall not carry a greater number of passengers than the number prescribed in the licence. (N.B. A babe in arms is classed as a passenger whatever their age).
- b. The vehicle shall not carry less than two passengers at any one time
- c. Where the passengers in the vehicle consist of persons under the age of 18 years they must be accompanied by a responsible adult, other than the driver, who is over the age of 18 years and is not connected to the driver.
- d. All passengers must remain seated at all times when the vehicle is in motion.
- e. Passengers will not be carried in the front of the vehicle.
- f. In accordance with Construction and Use Regulations, where seat belts are fitted they must be used by all passengers

### LN5. Safety Equipment NB replaces Part (a) of Condition 14 for PH Vehicles

The proprietor of the private hire vehicle shall provide and maintain to the satisfaction of the Authorised Officer an efficient fire extinguisher containing BCF (Bromochloro

## Appendix 2

Difluoromethane), which shall be securely fixed to the vehicle and within easy reach of the driver at all times.

The extinguisher shall be manufactured to British Standards and shall show the B.S. number. The vehicle licence number shall be painted upon the extinguisher, using indelible black ink, in letters at least 10 mm high

### LN6. Uniform

The proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or 'business type' suit when the vehicle is hired.

### LN7. Material Change

The Proprietor shall notify the Council immediately in writing if there is any material change in the nature of the use of the vehicle during the period of exemption.

### LN8. Exemption from Window Tint

The Proprietor of any executive hire vehicle wishing to take advantage of an exemption limiting the window tint to the front driver and passenger windows only must not be engaged in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied children/young persons (under age 18 years).

### E1. Advertisements



## Appendix 2

No sign or advertisement of any description shall be displayed in or on the vehicle at any time whilst it is being used in accordance with the certificate of exemption

### E2. Alteration to Vehicle

The proprietor must not change the design, condition or appearance of the vehicle without first obtaining the written approval of the Council.

### E3. Appearance of vehicle

The vehicle must NOT be red in colour, must be approved by the Council and shall:

- a. Have at least four doors that can be opened from both inside and outside the vehicle.
- b. Be right-hand drive
- c. Have an engine capacity of not less than 1800cc
- d. Have a minimum seating capacity for at least four adult passengers and each seat shall not be less than 400 mm or 16 inches wide.
- e. Luggage must be properly secured in a vehicle which does not have a boot.
- f. Be wind and watertight.
- g. Have windows that can open on both sides of the vehicle.
- h. Have seats properly cushioned and covered.
- i. Have a floor properly covered with carpet or other suitable covering
- j. Have an adequate internal light to enable passengers to enter and leave the vehicle safely.
- k. Have a spare wheel to fit the vehicle and equipment to change a wheel on the vehicle with that wheel e.g. a jack and wheel brace. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:
  - i. The carriage of passengers is not permitted whilst such a tyre is fitted
  - ii. The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.
  - iii. The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.
  - iv. Due to the speed restriction and the fact that the tyre compound is generally softer (to simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.

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- v. Where a vehicle is manufactured without a spare wheel, the use of approved pressurised tyre sealants will be permitted

In addition tyres on the same axle must be of the same nominal size and aspect ratio

- l. Be properly fitted with seat belts of approved design for every passenger the vehicle is licensed to carry.
- m. Be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the normal zone of vision i.e. the front windscreen 75 per cent light transmittance and the front door windows 70 per cent light transmittance. In addition the remaining glass within the vehicle shall have a minimum light transmittance of not less than 30 per cent. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass (Policy).
- n. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.
- o. Not be a convertible.
- p. Not fitted with a roof sign
- q. Not be fitted with a roof rack.
- r. Not draw a trailer.

E4. Change of address

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

E5. Uniform

The proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or 'business type' suit when the vehicle is hired.

E6. Change of Engine

The proprietor must inform the Council, in writing, within two working days of any change of the engine in the vehicle.

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### E7. Change of Private Hire Operator

This vehicle may only be operated under the provisions of one Private Hire Operators Licence at any moment in time. The proprietor must notify the Council of any change in Private Hire Operator, in writing, using the Council's approved forms within 48 hours

### E8. Cleanliness

The proprietor must ensure that the private hire vehicle is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

### E9. Convictions

The proprietor shall within seven days disclose to the Council in writing details of any criminal or motoring convictions, fixed penalties and/or caution imposed on him or, if the proprietor is a Company or Partnership, on any of the Directors or Partners during the period of the licence.

### E10. Deposit of Litter

If the Proprietor permits or employs any other person to drive the vehicle as a private hire vehicle, he shall before that person commences to drive the vehicle cause the driver to deliver to him his private hire driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his. Any person driving a private hire vehicle must be licensed, even if the vehicle is not being used for private hire purposes (also Section 46 (b) and (c) of LG (MP) Act 1976.

### E11. Letting/Leasing of Vehicles

The proprietor shall not let or hire the vehicle identified in this licence to any other person, other than a fare paying passenger, without first notifying the Council in writing. NOTE: the proprietor will still be jointly responsible for the vehicle should a leasing arrangement be entered into.

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### E12. Licence Plates

Whilst acting in accordance with the exemption certificate issued for this vehicle, no rear plate may be displayed from the vehicle but shall be carried within the boot of the vehicle and shall be produced to an authorised officer if required. The internal front display plate shall be carried on the front windscreen of the vehicle at all times whilst this vehicle is being used in accordance with the exemption certificate

### E13. Loss/Theft of Plate or Licence

The proprietor must report the loss/theft of licence or identification plate(s) to the Licensing Section as soon as the loss becomes known and in any case, within 2 working days. A lost property/crime number must be obtained from the Police and details of this given to the Council.

### E14. Safety Equipment

The vehicle must always carry in a conveniently and readily accessible position:

- a. A suitable and efficient multipurpose dry powder fire extinguisher or AFFF aqueous foam fire extinguisher should be secured in the boot of the vehicle as recommended by the Fire Authority. (Where the extinguisher is to be used in an eight-passenger seat vehicle, which does not have a boot it is recommended that a AFFF fire extinguisher is used. If a dry powder extinguisher is activated in a vehicle the powder may cause loss of vision).
- b. A first aid box, suitable for passenger carrying vehicles, must be available in the vehicle for use by a suitably trained person to provide emergency aid at an incident, (there is no expectation that a licensed driver without first aid training would do this). The first aid kit should be in a suitable airtight container marked with a white cross on a green background. The container must be clearly marked in indelible black ink with the vehicle licence number and must contain the following:

1 x first aid guidance leaflet

1 x sterile wound dressing (7.5cm x 4.5cm)

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- 24 x assorted adhesive dressings
- 2 x pairs disposable gloves
- 3 x sterile ambulance dressings
- 2 x sterile eye pads
- 10 x antiseptic wipes (alcohol free)
- 2 x triangular bandages non-woven
- 12 x safety pins
- 1 x pair rust free blunt ended scissors

E15. Sliding Doors

Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in motion and carrying passengers. The opening and closing mechanism shall not be altered so as to prevent the doors from locking into the open position

E16. Uniform

The proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or 'business type' suit when the vehicle is hired.

Hackney Carriage Byelaws

Appendix 14

These Byelaws are 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 Darlington with respect to Hackney Carriages in the Borough of Darlington.

1. Throughout these byelaws "the Council" means the Council of the Borough of Darlington and "the District" means the Borough of Darlington

## Appendix 2

### 2. Identification Plate

- a. The proprietor of a hackney carriage shall cause the plate provided by the Council specifying the number of the licence granted to him and the permitted number of passengers in respect of that hackney carriage to be securely fixed to the outside of the carriage.
- b. The plate identifying the vehicle as a hackney carriage and required to be exhibited on the vehicle pursuant to Section 51 of the 1847 Town Police Clauses Act shall be securely affixed to the rear of the vehicle in a conspicuous position so that all particulars thereon are clearly visible by daylight from the nearside of the road, and in such manner as to be easily removable by an authorised Officer of the Council or a Constable.
- c. A proprietor or driver of a Hackney Carriage shall:
  - i. Not wilfully or negligently cause or suffer any such number to be concealed from view whilst the Hackney Carriage is standing or plying for hire;
  - ii. Not cause or permit the carriage to stand or ply for hire with any such plate so defaced that any figure or material particular is illegible

### 3. Maintenance of Vehicle

The proprietor of a Hackney Carriage shall:

- a. Ensure that the Hackney Carriage and all its fittings and equipment shall at all times when the vehicle is available for hire or hired be kept in an efficient, safe, tidy and clean condition and in particular:
  - i. Provide sufficient means by which any person in the carriage may communicate with the driver.
  - ii. Cause the roof or covering to be kept watertight.
  - iii. Provide any necessary windows and a means of opening and closing not less than one window on each side
  - iv. Cause the seats to be properly cushioned or covered
  - v. Cause the floor to be provided with proper carpet, mat or other suitable covering.
  - vi. Provide means for securing baggage if the carriage is so constructed as to carry baggage.
  - vii. Provide an efficient fire extinguisher, which will be carried in such a position as to be readily available for use.
  - viii. Provide efficient interior lighting
  - ix. Provide at least two doors for the use of persons conveyed in such a carriage and a separate means of entry and exit for the driver
  - x. Provide and maintain in the Hackney Carriage at all times a first aid kit in such a position so as to be readily visible and available for immediate use in an emergency.

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- xi. Cause a statement of the fares currently fixed by the Council to be displayed and maintained in such a position inside the Hackney Carriage so as to be clearly visible for passengers
- b. Make no material alteration to the specification, design, condition or appearance of the Hackney Carriage without the prior approval of the Council.

### 4. Driver Licence

The proprietor of a Hackney Carriage shall ensure at all times that the driver of a vehicle licensed as a Hackney Carriage, whether or not it is plying for hire at any particular moment holds a current driver's licence issued by the Council.

### 5. Notifications

- a. the proprietor or driver of the Hackney Carriage shall notify the Council without delay of any of the following incidents which concern the proprietor or driver whilst they hold a current licence issued by the Council:
  - i. Change of address
  - ii. Criminal conviction
  - iii. Road traffic accident involving any motor car whether or not it is a Hackney Carriage.
- b. the proprietor or driver shall ensure that at all times when the Hackney Carriage is available for hire or hired it is insured for public use hire.

### 6. Taximeters

- a. The proprietor of a motor propelled Hackney Carriage shall cause the same to be provided with a taximeter so constructed, attached, and maintained as to comply with the requirements of the Council and the taximeter shall be situated inside the carriage in such a position that all letters and figures of the face thereof may at all times be plainly visible to any persons being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably illuminated.
- b. The driver of a Hackney Carriage provided with a taximeter in accordance with Byelaw (6) shall as soon as the carriage is hired bring the machinery of the taximeter into action and thereby record on the face of the taximeter in figures clearly legible and free from ambiguity, a fare stating the rate of fare which the driver is entitled to

## Appendix 2

demand and take for the hire of the carriage by distance in pursuance of the rate of fare prescribed for the time being by the Council under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.

- c. On the coming into operation of a table of fares made by this Council the fare which the driver is entitled to demand and take for the hire of the carriage by distance shall be the rate of fare prescribed by the Council (provided nevertheless that a proprietor shall not offend against this Byelaw where the table of fares is varied by the Council and he has not had a reasonable opportunity to cause the taximeter to be altered or record the rate of fares in accordance with the table of fares as varied).
- d. A proprietor or driver of a Hackney Carriage shall not tamper or permit any other person to tamper with any taximeter, with which the carriage is provided, or with the fittings thereof, or with the seals affixed thereto.

### 7. External Signs

- a. Every proprietor of a Hackney Carriage shall cause the carriage to be fitted with a roof sign bearing the word "TAXI" and such other lettering or numbering as may be approved by the Council.
- b. No other lettering, numbering, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle except as may be required by any statutory provisions or required or permitted by the Council, provided, however that this shall not apply to a sign which:
  - i. is displayed in, on or from the vehicle whilst it is stationary; and
  - ii. contains no words or numbers other than the name and address of the operator of the vehicle or the name under which he carries on his business and the name of the passengers to be carried in the vehicle; and
  - iii. is displayed in pursuance of a prior arrangement made for the carriage of a passenger or passengers named in the sign.

### 8. Taxi Stands



## Appendix 2

The driver of a Hackney Carriage for which stands are fixed by the Council shall, when plying for hire in any street,

- a. Proceed with reasonable speed to one of such stands.
- b. If a stand, at the time of arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand.
- c. On arriving at the 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 direction designated by the Byelaw for that stand.
- d. From time to time when the carriage 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 in front.
- e. Not leave a Hackney Carriage unattended on a rank.

### 9. Importuning (Touting)

A proprietor or driver of a Hackney Carriage which is available for hire shall not, by calling out or otherwise, importune any person to hire such carriage, and shall not make use of the services of any other person for the purpose

### 10. Behaviour

The driver of a Hackney Carriage shall:

- a. At all times be clean and respectable in his dress and person and behave in a civil and orderly manner.
- b. Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the carriage.
- c. Accord all reasonable assistance with passenger's luggage.
- d. Not without the express consent of the hirer, drink or eat in the vehicle.
- e. Afford all reasonable assistance to elderly, infirm or disabled passengers.
- f. Not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- g. At no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the carriage which he is operating to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.

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### 11. Receipt

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

### 12. Animals

- a. The driver shall not convey in a Hackney Carriage any animal belonging to or in the custody of himself or the proprietor of the vehicle.
- b. Any animal belonging to or in the custody of any passenger which, at the driver's discretion, may be conveyed in the vehicle, shall only be conveyed in the rear of the vehicle, provided nevertheless that the driver of a Hackney Carriage shall not refuse to convey a guide dog accompanying a registered blind person nor shall such animal be restricted to the rear of the vehicle.

### 13. Attendance

The proprietor of a Hackney Carriage whether by himself, his driver, agent or employee who has agreed that the carriage attend at an appointed time shall, unless delayed or prevented by some sufficient cause, ensure that the carriage attends punctually at the appointed time and place

### 14. Passengers

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, save that for the purpose of this Byelaw:

- a. Two children aged 10 years or less shall count as one person, although this calculation is not to be applied to permit more than four children aged 10 years or less to travel in the rear at the same time (NB replaced by seat belt regulations).

## Appendix 2

- b. No child aged 10 years or less is permitted to travel in the front seat of a Hackney Carriage except an infant of two years or less who is conveyed in a child safety cot approved for this purpose by the British Standards Institute (or such future body which carries out the functions of the aforesaid Institute) securely affixed to the front passenger seat.

### 15. Horse Drawn Vehicles

The proprietor of a horse-drawn Hackney Carriage shall:

- a. Whilst standing or plying for hire, not drive or allow to be driven or harnessed or allowed to be harnessed to the carriage any animal in such condition as to expose any person conveyed or being in such carriage or any person traversing any street, to risk of injury.
- b. Shall while standing or plying for hire, cause every part of the harness of the animal or animals to be properly and securely attached to the carriage and under due control.
- c. Shall not in any street feed or allow to be fed any animal harnessed or otherwise attached to such carriage, except with food contained in the proper bag or other receptacle suspended from the head of such animal or from the centre pole of the carriage or which is held in and delivered with the hand of the person feeding such horse.

### 16. Drivers Badge

The driver shall at all times when driving a Hackney Carriage available for hire or hired, wear the driver's badge provided by the Council on the breast of the outer clothing and in such position and manner as to be plainly and distinctly visible.

### 17. Penalties

## Appendix 2

Every person who shall offend against any of these Byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale and in the case of a continuing offence a further penalty not exceeding £2 for each day after written notice of the offence from the Council.

### 18. Interpretation

- a. The Interpretation Act 1978 shall apply to these Byelaws as though they were an Act of Parliament.
- b. Proprietor, Hackney Carriage, taximeter, driver's badge, driver's licence, vehicle licence, have the same meaning as defined in Section 80(1) of the local Government (Miscellaneous Provisions) Act 1976.

This is a true copy of the byelaws with respect to Hackney Carriages made by the Council of the Borough of Darlington and confirmed by the Secretary of State for the Home Department.

The date fixed by him for the coming into operation of these byelaws was 1 March 1990.

## Appendix 2

- a. Any advertisement upon a Hackney Carriage requires the prior written approval of the Council. Approved advertisements may be placed on the rear doors and rear quarter panel only and be of a stick-on plastic film type material (magnetic panels will not be allowed). **The background colour of the vehicle must not be changed to enhance the advertisement and it must be contained within the lower half of the rear quarter panel only. The rear bumper may be used to display the company contact details. Any vehicles that have current advertisements, which do not comply with these requirements will have until 1st April 2022 to make the necessary amendments.** The following types of advertisement will be excluded
  - i) Any advertisement that it is felt likely to give rise to public offence will be refused.
  - ii) Any advertising of gambling, alcohol, tobacco or e cigarettes or a “prohibited practice” as described by the Consumer Protection from Unfair Trading Regulations 2008
  - iii) Any approved advertisement that is later found to give rise to justifiable public offence. This shall immediately be removed upon the instruction of an authorised officer.
- b. No other signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices shall be displayed in, on, or from the vehicle except as may be required by any statutory provision (including bylaws) or required or permitted by these conditions
- c. No illuminated or fluorescent advertisement shall be displayed on the inside the vehicle.
- d. No advertisement shall be placed on, or above, the roof level.

### HV2. Alteration of Vehicle

The proprietor must not change the design, condition or appearance of the vehicle without first obtaining the written approval of the Council

### HV3. Appearance of Vehicle

The vehicle must be approved by the Council and shall:

- a. Have at least four doors that can be opened from both inside and outside the vehicle.
- b. Be right-hand drive.
- c. Have an engine capacity of not less than 75 bhp or 1500cc

## Appendix 2

- d. Have minimum seating capacity for at least four adult passengers and each seat shall not be less than 400 mm or 16 inches wide.
- e. Luggage must be properly secured in a vehicle which does not have a boot
- f. Be wind and watertight
- g. Have windows that can open on both sides of the vehicle.
- h. Have seats properly cushioned and covered
- i. Have a floor properly covered with carpet or other suitable covering;
- j. Have an adequate internal light to enable passengers to enter and leave the vehicle safely
- k. Have a spare wheel to fit the vehicle and equipment to change a wheel on the vehicle with that wheel e.g. a jack and wheel brace. Where vehicles are supplied by the manufacturer fitted with a space saver spare tyre the Council will permit their use in licensed vehicles, subject to the following:
  - i) The tyre used must be supplied or recommended by the manufacturer of the vehicle concerned and shall be replaced after it has been used on the vehicle.
  - ii) The space saver is used for an emergency or temporary purpose to enable the vehicle to be driven to a place of repair.
  - iii) Due to the speed restriction and the fact that the tyre compound is generally softer (to simulate traction capabilities to compensate for imbalance) the distance travelled using a space saver should not be in excess of 50 miles.
  - iv) Where a vehicle is manufactured without a spare wheel, the use of approved pressurised tyre sealants will be permitted

In addition tyres on the same axle must be of the same nominal size and aspect ratio.

- l. Be properly fitted with seat belts of approved design for every passenger the vehicle is licensed to carry.
- m. Be fitted with glass which is in accordance with current vehicle construction and use regulations prescribed in respect of the normal zone of vision i.e. the front windscreen 75 per cent light transmittance and the front door windows 70 per cent light transmittance. In addition the remaining glass within the vehicle shall have a minimum light transmittance of not less than 30 per cent. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass (policy).
- n. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement
- o. Not be a convertible
- p. Not be fitted with a roof rack.
- q. Not draw a trailer.
- r. Be coloured red (Pantone 485), and all of the painted body panels shall be the same colour of red. Proprietors are advised that they should consult with the licensing department, before purchasing a new vehicle, if they are in any doubt about the colour of the vehicle. Wrapping of vehicles will be permitted.

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### HV4. Booking Records

The proprietor shall ensure that a record is kept of all pre-arranged bookings for the vehicle. The record must be kept in the form described in the following condition:

- a. Records must be kept in a suitable book, approved by the Council the pages of which are consecutively numbered.
- b. On a computer with backup records, which is capable of producing a hard copy
- c. The proprietor or his/her agent/employee must enter, before the commencement of each journey, the following particulars of every booking of every hackney carriage operated by him/her:
  - i) the name and address of the hirer;
  - ii) the date, time and pickup point of the booking;
  - iii) the destination;
  - iv) the number of passengers to be carried;
  - v) when and how the booking was made i.e. telephone, personal call;
  - vi) the plate number of the vehicle allocated;
  - vii) the name of the driver allocated to the booking and call sign of the vehicle;
  - viii) the amount to be charged;
  - ix) remarks (including details of any sub-contract);
- d. All records are to be kept for a period of not less than 12 months following the date of the last entry and to be produced for inspection on the request of an Authorised Officer of the Council or a Police Officer

### HV5. Change of Address

The proprietor shall notify the Council in writing (or electronically) of any change of address during the period of the licence within seven days of such change taking place.

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### HV6. Change of Engine

The proprietor must inform the Council, in writing (or electronically), within two working days of any change of the engine in the vehicle.

### HV7. Cleanliness

The proprietor must ensure that the hackney carriage is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

### HV8. Convictions

The proprietor shall within seven days disclose to the Council in writing (or electronically) details of any criminal or motoring convictions, fixed penalties and/or caution imposed on him or, if the proprietor is a Company or Partnership, on any of the Directors or Partners during the period of the licence.

### HV9. Letting/Leasing of Vehicles

The proprietor shall not let or hire the vehicle identified in this licence to any other person, other than a fare paying passenger, without first notifying the Council in writing. NOTE: the proprietor will still be jointly responsible for the vehicle should a leasing arrangement be entered into.

### HV10. Licence Plates

- a. The rear identification plate, supplied by the Council, shall be securely fixed to the rear of the vehicle; in a conspicuous position approved by an authorised officer of the Council
- b. The front identification plate shall be securely fixed to the front of the vehicle in a conspicuous position approved by an authorised officer of the Council

### HV11. Loss/Theft of Plate or Licence



## Appendix 2

The proprietor must report the loss/theft of licence or identification plate(s) to the Licensing Office as soon as the loss becomes known and in any case, within 2 working days. A lost property/crime number must be obtained from the Police and details of this given to the Council.

### HV12. Records

The proprietor must keep records, in a form approved by the Council, of all drivers and the hours worked by such drivers.

### HV13. Safety Equipment

The vehicle must always carry in a conveniently and readily accessible position:

- a. A suitable and efficient multipurpose dry powder fire extinguisher or AFFF aqueous foam fire extinguisher should be secured in the boot of the vehicle as recommended by the Fire Authority. (Where the extinguisher is to be used in an eight-passenger seat vehicle, which does not have a boot it is recommended that a AFFF fire extinguisher is used. If a dry powder extinguisher is activated in a vehicle the powder may cause loss of vision).
- b. The Hackney Carriage Proprietors licence number shall be painted upon the extinguisher, using indelible black ink, in letters at least 10 mm high
- c. A first aid box, suitable for passenger carrying vehicles, must be available in the vehicle for use by a suitably trained person to provide emergency aid at an incident, (there is no expectation that a licensed driver without first aid training would do this). The first aid kit should be in a suitable airtight container marked with a white cross on a green background. The container must be clearly marked in indelible black ink with the vehicle licence number and must contain the following:

1 x first aid guidance leaflet

24 x assorted adhesive dressings

2 x sterile eye pads

2 x triangular bandages non-woven

## Appendix 2

- 3 x sterile ambulance dressings
- 1 x sterile wound dressing (7.5cm x 4.5cm)
- 2 x pairs disposable gloves
- 10 x antiseptic wipes (alcohol free)
- 12 x safety pins
- 1 x pair rust free blunt ended scissors

### HV14. Signs and Notices

- a. The plastic decals approved and supplied by the Council shall be securely fixed in a central position on the nearside and offside front doors of the vehicle, using the adhesive backing provided. This sign must remain legible at all times. This decal carries the licence number for the vehicle and must remain legible at all times. NB Magnetic discs are not permitted.
- b. The vehicle shall display a Taxi roof sign, (except where the vehicle has an integrated roof sign) approved by the Council, which shall be maintained and capable of being operated in such a manner as to indicate clearly and conveniently to persons outside the vehicle whether or not the vehicle is for hire. The sign shall have only the word "Taxi" painted or printed in the colour black upon a white background. The rear of the sign should not show a white light at night.
- c. Where a hackney carriage is being operated through a Darlington Council licensed private hire business, the name of that operator shall be displayed on the outside of the rear doors of the vehicle.

### HV15. Sliding Doors

Where sliding doors are an integral part of a vehicle and a locking device has not been fitted the child locking systems shall be engaged by the driver at all times when the vehicle is in motion and carrying passengers. The opening and closing mechanism shall not be altered so as to prevent the doors from locking into the open position

### HV16. Swivel Seats

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Where fitted as a passenger seat, certificates of fitting from an authorised fitter must be obtained and produced to the Council before a vehicle can be tested and/or licensed.

### HV17. Meters

- a. All vehicles must be fitted with a taximeter which complies with the Measuring Instruments (Taximeters) Regulations 2006 and must be of the calendar control type which is locked and sealed by an approved manufacturer/suppliers and/or installer.
- b. The meter must be directly linked to the roof sign so that when the meter is in use the roof sign is not illuminated. Override switches or similar devices which permit disconnection or unlinking of the meter to the illumination of the vehicle roof sign are prohibited.
- c. Meters must be installed into the vehicle in a suitable and secure manner at all times

### HV18. Charges

An additional fee must NOT be levied over and above the metered fare in respect of

- a. credit or debit card charges.
- b. the loading, unloading, unloading or carriage of wheelchairs etc.
- c. the carriage of disabled passengers
- d. Assistance dogs

### HV19. Wheelchair Accessible Vehicles (WAVs)

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Where a vehicle is built or adapted to carry wheelchairs which permit the wheelchair user to remain in their wheelchair throughout the journey, the proprietor and/or driver shall ensure that:

- a. the wheelchair is positioned in the vehicle so as to permit the passenger to face forwards or rearwards, and
- b. the wheelchair is secured using the correct restraint system which is permanently secured to the vehicle, and
- c. the passenger is secured by an appropriate 3 point seat belt which is permanently secured to the vehicle and not by the wheelchair's lap belt
- d. **Any wheelchair ramps, wheelchair securing straps, wheelchair seatbelt extensions and any other equipment necessary for the safe transportation of wheelchair users must be kept in the vehicle at all times.** Such equipment must be of the correct type for the vehicle in which it is being carried and must at all times be in a safe, serviceable and clean condition. Any such equipment must be permanently marked with the registration number of the vehicle in which it is carried

Appendix 16 (Update before publication)

Table of Existing Vehicles by Age

Year	HCV Saloon	HCV Wheelchair	PHV Saloon	PHV Wheelchair	Grand Total
2003	1	2			<b>3</b>
2004	4				<b>4</b>
2005	4				<b>4</b>
2006	9				<b>9</b>
2007	14		3		<b>17</b>
2008	16	1	1		<b>18</b>

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2009	14		2		<b>16</b>
2010	20	4	13	3	<b>40</b>
2011	8		10		<b>18</b>
2012	25	1	12		<b>38</b>
2013	28	1	21		<b>50</b>
2014	17	1	11		<b>29</b>
2015	4			1	<b>5</b>
<b>Grand Total</b>	<b>164</b>	<b>10</b>	<b>73</b>	<b>4</b>	<b>251</b>

Appendix 17

Vehicle Criteria for Exceptionally Well maintained Exterior

1. All bodywork to be clean and sound, free from rust, dents, scrapes significant scratches or loose panels.
2. All paint work to be in first class condition – no “egg shell” finish, or different shades of colours on either external or interior areas, which are visible to the public.
3. All wheel trims to be fitted according to manufacturer’s specification and to match.
4. Aerials (where fitted) to be in good condition and free from rust.
5. Door or wing mirrors to be in good condition, no broken glass or surrounds.

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6. No broken or missing glass or surrounds on all front and rear lights and indicators (including repeater indicators where fitted).
7. Front and rear number plates to be clean, clear and unbroken
8. Front and rear bumpers to be in first class condition, no rust, dents, scrapes (including any over riders and end surrounds) and should be securely fitted.
9. Mud flaps (if fitted) should be maintained.
10. Radiator grills should be secure and of original specification.
11. Front and rear (where fitted) windscreen wiper heads and arms should be in good condition, no rust and properly fitted.
12. Door and boot locks should be fitted and in good working order.
13. Doors should be easily opened and closed from the outside and inside.
11. All door handles should be properly fitted, easily operated and of original colour specification.
12. A spare wheel, which conforms, to legal requirements and equipment to change a wheel on the vehicle e.g. a jack and wheel brace should be provided and properly fitted in the vehicle. The exception to this requirement is when the manufacturer has provided a space saver tyre instead of a full size wheel. The use of pressurised tyre sealants will not be permitted in any circumstances
13. All tyres should conform to legal requirements.
14. All road wheels to be clean and free from rust (where trims are not fitted).

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Appendix 18

Vehicle Criteria for Exceptionally Well maintained Interior

1. All seats to be manufacturer's original design (unless rotating seat fitted) – should all match, be securely fitted, no dirt, stains, holes or tears.
2. Front and rear seat belts should be clean, undamaged and in good working order. All anchorage point covers should be properly fitted and match original trim.
3. All panels should be clean, properly fitted and match original trim.
4. Carpets should be as manufacturer's original specification, clean with no stains or holes and securely fitted
5. All instruments, including the PDA, two way radio and/or taximeter shall be secured within the vehicle and contained within a mounted bracket affixed to the vehicle and suitable for the purpose of preventing the instrument to travel round the vehicle in the event of an accident.
6. Accessory covers to be securely fitted and match original trim.
7. All ashtrays to be fitted and match original trim.
8. Headlining to be clean, free from stains, holes and tears and be as originally fitted
9. All window winder handles to be as originally fitted, clean and easy to operate. Where electric window openers are fitted, each window should be capable of being opened by the passenger
10. All door handles and arm rests to be secure, clean and as originally fitted.

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11. Brake, clutch and accelerator pedal rubbers to be fitted and in good condition.
12. The inside of the vehicle should be free from loose or trailing wires.
13. The boot/luggage space should be tidy with a clean, unstained carpet/cover to manufacturer's specification. All panelling should be secure, clean and in good condition.
14. In hatchback vehicles the boot cover should be to original specifications, in good condition with both lifting straps fitted.
15. Where the vehicle is an estate car or does not have a fully segregated luggage compartment, a grille or similar guard sufficient to prevent luggage carried in the rear compartment from coming into contact with passengers in the vehicle shall be fitted.
16. Gear levers gaiters (where fitted) should be to manufacturer's specification, in good condition and properly fitted.
17. A rear view mirror must be properly fitted and in good condition.
18. All manufacturers fittings should be as original (i.e. speaker covers etc.).
19. All lights should be in proper working order with appropriate covers securely fitted.
20. Window locks and handles, where provided by the manufacturer should be in good working order.



## Appendix 2

## Appendix 19

## Stands for Hackney Carriage Vehicles (To update before publication)

<b>Stand</b>	<b>Location</b>	<b>Maximum Number of Spaces</b>
Beaumont Street West 7.00 pm – 7.00 am	On the north side from 8 metres west of Beaumont Street westwards for 40 metres	8 vehicles Vehicles to face east
Bondgate 9.00 am – midnight Midnight – 7.00 am	On the south side from 6 metres west of Skinnergate westwards for 20 metres	4 vehicles Vehicles to face west
Bondgate 6.00 pm – 8.00 am	On the south side from 11 metres east of Skinnergate eastwards for 18 metres	4 vehicles Vehicles to face west
Coniscliffe Road 6.00 pm – 6.00 am	On the south side from 20 metres east of eastern boundary of 3 Coniscliffe Road westwards for 45 metres	4 vehicles Vehicles to face west
East Row 24 hour	On the west side in the lay-by lying approximately 4 to 21 metres south of Tubwell Row	3 vehicles Vehicles to face north in a row parallel to carriageway
East Row 5.00 pm – 6.00 am Feeder Rank	On the east side in the lay-by lying approximately 5 to 26 metres south of Tubwell Row	3 vehicles Vehicles to face south
Gladstone Street 7.00 pm – 7.00 am	On the south side from 43 metres westwards for 85 metres west of Northgate	17 vehicles Vehicles to face west

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Grange Road 24 hours	On the west side from 5 metres south of Coniscliffe Road to 10 metres north of Northumberland Street	4 vehicles Vehicles to face north
Grange Road 6.00 pm – 8.00 am Feeder Rank	On the west side from Northumberland Street northwards	2 vehicles Vehicles to face north
Priestgate 24 hours	On the south side from 5 metres east of Prebend Row to 10 metres west of Penny Yard	5 vehicles Vehicles to face west
Tubwell Row 6.00 pm – 8.00 am	On the north side in the lay-by from Crown Street westwards for approximately 30 metres excluding pedestrian route across lay-by	6 vehicles Vehicles to face east
Victoria Road 24 hours	On the north side 20 metres west of its junction with Pensbury Street, westward for 45 metres	9 vehicles Vehicles to face east.

1. The information below is specific to horse drawn carriages. Drivers will however be required to obtain the appropriate Council driver licence and will be subject to all of the requirements associated with such licence.
2. Proprietors and Operators of vehicles will be subject to those licence conditions that are relevant to public and/or private hire excluding those specifically relating to vehicle design etc. which have been replaced with the requirements detailed below.

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### Policies

3. A competent person nominated by the Council (and representing the British Driving Society, the British Horse Society, the Heavy Horse Society or other body able to assess the competence of drivers) shall assess and provide a report stating that the driver is competent to drive the carriage as part of the application process.
4. A Veterinary Certificate signed by a Veterinary Surgeon stating that each horse is fit to carry out the work required of it shall be submitted to the Council as part of the application process
5. The location of the stables in which the horses are normally housed shall be notified to the Council's Licensing Office as part of the application process.
6. Access to the stables shall be granted to Council Officers and their advisers at any time. (NB Should the Council receive a report from the RSPCA, a Veterinary Surgeon or other qualified person that the conditions under which the horses are being kept are not in the interests of the health of the animal and its capacity to pull a carriage, the Licence shall be suspended by Officers until satisfied that the horses are being kept in a humane manner.)
7. The stables must also satisfy the fire safety requirements for stables by Darlington and Durham Fire and Rescue Service. In the event that the stables do not satisfy these requirements, the Licence will be suspended until adequate fire precautions have been made.
8. The Licence will be granted for a maximum period of 12 months. This may be subject to review in the event of any closure of streets on the approved route.
9. The proprietor/driver shall be limited to routes specified in writing by the Council following appropriate consultation.
10. The horse drawn vehicle shall not be required to comply with the following Darlington Hackney Carriage Byelaws 1990:

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- a. Byelaw 3 (viii) provide efficient interior lighting
- b. Byelaw 6 taximeter
- c. Byelaw 7(a) fitting a roof sign bearing the word taxi

## Conditions

11. The proprietor shall produce veterinary certificates as may from time to time be requested by Officers of the Council.
12. Certified horses should be easily identified by means of a microchip or permanent marking.
13. The horse must have a current passport.
14. No horse shall work for more than eight hours during any one day and shall have at least one hour break between the commencement and termination of duties.
15. No horse shall be used for drawing a carriage during the hours of darkness
16. The proprietor shall keep written records for each horse showing if it is working with details of the time the horse was put into harness, taken out of harness and rest periods.
17. A safe means of access and egress from the vehicle (e.g. a step and secure hand holds) shall be provided.
18. The maximum fare to be charged shall be approved in writing by the Council.
19. The vehicle shall be capable of carrying not less than 4 adult passengers.
20. The proprietor must keep the area in the vicinity of the rank they operate from clean and clear of horse manure or any other obstruction of the highway associated with their use.

## Appendix 2

21. The proprietor must provide clean wholesome drinking water throughout the day for their horse.
22. A device must be attached to the horse to prevent its faeces being deposited upon the highway or hackney carriage stand.
23. The Proprietor shall make suitable arrangements for the proper disposal of horse faeces.
24. The vehicle shall be provided with front and rear position lights that meet the requirements of the Vehicle (Construction and Use) Regulations.
25. The Licence identification plate, supplied by the Council, shall be securely fixed to the rear of the vehicle; in a conspicuous position approved by an authorised officer of the Council, using bolts or screws.

### Guidance on the Licensing of Horse Drawn Carriages

26. The driver of a horse drawn hackney carriage shall when plying for hire, proceed with reasonable speed to a Hackney Carriage stand. Hackney Carriages are allowed to ply for hire from stands (also known as taxi ranks), or in the street (there are currently no stands provided for horse drawn vehicles in Darlington and they would have to be created).
27. The Fares for hiring hackney carriage vehicles have to be decided by the Council and the tariff set must be displayed inside the vehicle

### Vehicle Licence

28. Before operating a horse drawn vehicle to carry fare paying passengers a licence must be obtained from the Council. All licences issued will have conditions attached. To apply for a licence a person must:
  - a. Complete an application form.

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- b. Provide evidence that arrangements are in place for the vehicle to be insured for public on the days that it will be operating.
- c. Present the vehicle of mechanical inspection by a competent person appointed by the Council.
- d. Present the horse, or horses, for inspection by a veterinary officer appointed by the Council.
- e. Make the stables available for inspection by any person appointed by the Council.
- f. Demonstrate ability to comply with the Council's Byelaws and/or Conditions together with the Code of Practice for horse drawn vehicles published by the Department of Transport.
- g. Pay the licence fee.

### Drivers – Qualifications

29. Drivers of horse drawn hackney carriages must hold a current full Road Traffic Act 1972 licence together with a Hackney Carriage driver licence issued by the Council. All drivers will be required to demonstrate that they are competent to drive relevant horse drawn vehicles.

### Department for Transport - Code of Practice for Horse Drawn Vehicles

30. The Department for Transport has published a Code of Practice for Horse Drawn Vehicles. This code was developed in conjunction with The British Driving society, The British Horse Society and The Heavy Horse Training Committee. (Copies are available from the Public Protection Division.) The Council will expect the proprietor and drivers to work in accordance with this Code. The Code provides:
  - a. guidance for new and existing drivers of horse drawn vehicles carrying passengers;
  - b. a road driving assessment for single, pair and teams of horses;
  - c. a detailed carriage safety checklist.

Appendix 21

## Appendix 2

### Authorised Officers (Legislation, Section 73 LG(MP)Act 1976)

1. You must not obstruct any Authorised Officer or police officer. You must provide any assistance or information (s)he may reasonably require.

### Criminal Record Check (Policy)

2. If you are not a licensed driver you will be required to produce a basic Criminal Record Check or search results on criminal convictions obtained within the last month which can be either:
  - a. a criminal conviction certificate issued under The Police Act 1997; or
  - b. the results of a subject access search under Data Protection Act 1998 of the Police National Computer by the National Identification Service. This check will be required every 5 years.
  - c. In the case of a Limited Company all directors and the Company Secretary will be required to submit a basic Criminal Records Check as detailed above.

### Location of Operating Premises (Policy)

3. It is a requirement of licence that the applicant operates vehicles only from premises within the controlled district of the Council. These premises must also have planning permission for private hire use.

### Subcontracting Private Hire Bookings (Section 55 A and B)

4. The Deregulation Act 2015 inserts two new sections into Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 in relation to the sub-contracting of bookings from one private hire vehicle operator to another. It applies in England and Wales, but not in London or in Plymouth where different legislation applies.
5. In accordance with the new provisions an operator who accepts a booking for a private hire vehicle can sub-contract it to four types of operator –
  - a. an operator licensed and located in the same district as the initial operator;

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- b. an operator licensed and located in a different district from the initial operator (a different district but one which is still governed by the same legislation – in practice this means a district in England or Wales but outside London or Plymouth);
  - c. an operator licensed and located in London; or
  - d. a person located in Scotland.
6. It is already lawful for a private hire vehicle operator to sub-contract a booking to another operator licensed in the same licensing district, it has been included within the new Act because it is not currently expressly stated within the Act of 1976.
  7. Subsection (2) of new section 55A clarifies that the new provision affects the legal position in respect of PHV operation under the 1976 Act; it is immaterial if the agreement between the passenger making the booking and the initial operator permits sub-contracting.
  8. The purpose of subsections (3), (4) and (5) of new section 55A is to cover the scenario of a private hire vehicle operator who is licensed under section 55 of the 1976 but also holds a private hire vehicle operator licence in a different district or operates in a different area. This could happen where, for example, a company operates in a number of different areas.
  9. Subsection (3) covers the scenario where an operator holds licences under section 55 of the 1976 Act for more than one licensing district. Subsection (4) covers the scenario where an operator holds a licence under section 55 of the 1976 Act and also holds a private hire vehicle operator licence issued by Transport for London in respect of London.
  10. Subsection (5) covers the scenario where an operator holds a licence under section 55 of the 1976 Act and also operates private hire cars or taxis in Scotland. Together, these subsections clarify that operators may sub-contract bookings effectively to themselves in the other districts or areas in exactly the same way that an operator can sub-contract to different operators by virtue of subsection (1).
  11. Subsection (6) provides that the terms “London PHV operator” and “operating centre” mean exactly the same as when they are used in the legislation which regulates private hire vehicles in London.



## Appendix 2

12. The new section 55B deals with operator liability in connection with sub-contracting. Subsection (1) simply draws a distinction between the operator who accepts the original booking and the operator who accepts the sub-contract (labelling them the first operator and the second operator respectively).
13. Subsection (2) of new section 55B establishes that an initial operator who sub-contracts a booking to an operator based in a different district or area in accordance with section 55A(1) does not breach the requirement in section 46(1)(e) of the 1976 Act (the requirement being that the driver and vehicle used to fulfil the booking must be licensed by the same licensing authority as granted the operator's licence).
14. Subsection (3) applies to an operator licensed under section 55 of the 1976 Act who sub-contracts to an operator also licensed under section 55 of the 1976 Act (whether in the same or a different district). The subsection introduces criminal liability for the first operator if the second operator breaches the requirement in section 46(1)(e) in relation to the booking and the first operator knew the second operator would do so (i.e. knew the second operator would use a driver or vehicle that was not licensed in the same district as the second operator).
15. The section forms part of the law of England and Wales. It applies in England and Wales except in London or Plymouth where different legislation applies (although it does permit the sub-contracting of bookings to London operators).
16. Where a private hire vehicle is subcontracted the Private Hire Operator is obliged to keep a record of the subcontract

### Production of Licence (Legislation Section 56(4) LG(MP)Act 1976)

17. You must produce your Private Hire Operator Licence when asked to do so by an Authorised Officer or Police Officer.

### Touting (Legislation – Section 167 Criminal Justice and Public Order Act 1994)

18. The operator and/or his employees shall not:

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- a. tout or solicit on a road or other public place any person to hire or be carried out for hire in any private hire vehicle; or
- b. cause or procure any other person to tout or solicit on a road or other public place any person to hire or be carried for hire in any private hire vehicle.
- c. ("road" in the above means any highway and any other road to which the public has access, including bridges over which a road passes).

Vehicle and Drivers Licences (Legislation – Section 46 LG(MP)Act 1976)

19. The Operator and/his employees shall not operate any private hire vehicle or driver if a current licence issued by the Council is not:
  - a. in force for the vehicle under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976; and
  - b. held by the driver under Section 51 of the said Act.

Private Hire Operator Conditions

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PO1. Booking Records (Legislation Section 56 (2)-(4) LG(MP)Act 1976 and Condition PO1)

1. Every licensed private hire operator must keep a record of every booking of every private hire vehicle operated by him/her and of every sub contract made with the operator or arranged by the operator. The records must be continuous, chronological records.

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2. There must be only one set of records: cash and credit account bookings can be separately identified but must not be in separate sets of records
3. The record must be kept in the form described in the following condition:
  - a. Records must be kept in a suitable form in a continuous, chronological order, approved by the Council the pages of which are consecutively numbered, or
  - b. On a computer which keeps backup records and is immediately capable of producing a printed record from the computer onto paper. Records must not be capable of retrospective alteration or amendment, and
  - c. The operator or his/her agent/employee must enter, before the commencement of each journey, the following particulars of every booking of every private hire vehicle operated by him/her, the:
    - Name and address of the hirer
    - Date, time and pickup point of the booking;
    - Destination;
    - Number of passengers to be carried;
    - When and how the booking was made i.e. telephone, personal call;
    - Plate number of the vehicle allocated;
    - Name of the driver allocated to the booking and call sign of the vehicle;
    - Amount to be charged; (where applicable)
    - Details of any sub contract arrangement.
    - Remarks
  - d. You must also keep records of the particulars of all private hire vehicles and drivers operated by you. These must include the owner of the vehicle, registration number, private hire vehicle licence number, any radio call sign used and all driver licence numbers.
  - e. All records are to be kept for a period of not less than 12 months following the date of the last entry and to be produced for inspection on the request of an Authorised Officer of the Council or a Police Officer.
  - f. You must not enter into your booking records details of any fare that has not been pre-booked by the hirer through your operating base, either by telephone or

## Appendix 2

personal caller (NB It is an offence to enter details of any illegal plying for hire in an attempt to make such activity appear to be a legitimate booking).

### PO2. Booking Records – Hackney Carriages

Where a licensed Private Hire operator accepts bookings for hackney carriages a record must be kept of each booking in the same format as all private hire bookings and this record must be produced on the request of an Authorised Officer of the Council or a Police Officer.

### PO3. Change of Home Address

You must notify the Council, in writing (or electronically), within 7 days of any change of your personal address.

### PO4. Change of Business Address

A Private Hire Operator licence is granted to you for the premises detailed at the time of application. It is not transferable to other persons or premises. Any change from the original application will be dealt with as a new application. You will be required to make a new application accordingly.

### PO5. Complaints

#### Complaints

- a. You must notify the Council, in writing (or electronically), within 7 days of any complaints concerning a contract for hire or intended contract for hire relating to or resulting from his business and of the action (if any), which you have taken or propose to take.
- b. Where a complaint is investigated by an Authorised Officer of the Council you shall comply with any reasonable directions of the Officer in respect of that complaint.

## Appendix 2

### PO6. Convictions

If you are cautioned for or convicted of any motoring or criminal offence you must notify the Council, in writing (or electronically), within 7 days. If the licence is in the name of a Company or Partnership the cautions/convictions of any Directors or Partners must be disclosed.

### PO7. Display of Licence

If the public has access to your operating premises you are required to display your Private Hire operator Licence in your operating premises together with a copy of your licence conditions and the Local Government (Miscellaneous Provisions) Act 1976.

### PO8. Radio Licences

If you have two-way radios fitted to the vehicles you operate you must produce evidence of an **Ofcom** Licence to the Council and provide all details of radio frequencies, together with call signs/numbers of all vehicles using two-way radios.

### PO9. Equal Opportunities

You must at all times treat your passengers or any potential passenger with courtesy and respect. You and your employees must not discriminate against any person with a **protected characteristic of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex**

### PO10. Facilities for Passengers

You must ensure that where any passenger waiting area or room is provided, it is kept physically separate from any driver rest area and operations room. Where a waiting area or room is provided for the use of passengers or prospective passengers you shall:

- a. provide adequate seating for the use of those passengers or prospective passengers; and

## Appendix 2

- b. ensure that such room or area is kept clean, adequately heated, ventilated and lit; and
- c. ensure that the interior and exterior of the premises is kept in good repair, to the satisfaction of the Council.

### PO11. Fares

The fare charged by you shall be agreed with the hirer at the time of booking.

### PO12. Parking

Where adequate off street parking is not available at the operating address specified on the licence you shall inform the Council, in writing all locations where vehicles will be parked when waiting for bookings.

### PO13. Planning and Permission

You must have Planning permission for private hire use at your operating premises. You must comply in every respect with the requirements of the current planning legislation

### PO14. Right of Access

You must permit any Authorised Officer of the Council onto your operating premises at all times when acting as a Private Hire Operator and provide him/her with access to all records which (s)he may reasonably require.

### PO15. Standard of Service

## Appendix 2

You must provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose must, in particular:

- a. Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle must, unless preventable matter, attend at the appointed time and place.
- b. Keep clean, adequately heated, ventilated and lit any premises which you provide and to which the public have access, whether for the purpose of booking or waiting.
- c. Ensure that any telephone facilities and radio equipment provided are, at all times, kept in good working order and that any defects are repaired promptly.
- d. Ensure that you do not describe the private hire service offered by the use of advertising signs, printed words, broadcasts or by any other media which use the words "Hackney Carriage" or "Taxi".

### PO16. Taximeters

When taximeters are used you must notify the Council of the fare rate and any subsequent changes made to that fare rate during the period of your Operator licence. Where any vehicle operated is fitted with an approved taximeter you shall ensure that the taximeter is set to the fare rate notified to the Council and properly sealed in accordance with Council regulations.

### PO17. Vehicles to be used

It shall be a requirement that hackney carriage and private hire vehicles and drivers that have been licensed by Darlington Council shall be used within the controlled district of Darlington unless it is necessary to sub-contract a booking. In this case the operator must ensure that the same standard of vehicle and driver is provided by the sub-contractor. This is to ensure that the travelling public of Darlington are provided with a consistent standard of service

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### PO18. Absence

If you are to be absent for 15 days or more you must notify the Council in writing, prior to the absence. A responsible person should be nominated to take responsibility of the business during your absence. Contact details of this person must be provided, in writing to the Council. You will still be responsible for all activities relating to the operation of the business.

## The Licensing Committee

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### Introduction

1. The Council's Licensing Committee exercises the Council's functions in relation to the licensing of Hackney Carriage and Private Hire vehicles, drivers and operators, in accordance with the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and other relevant legislation. When dealing with such matters Licensing Officers and the Licensing Committee will have regard to the Council's Private Hire and Hackney Carriage Policies. Application for and reviews of driver licences will be dealt with by the General Licensing Sub Committee which comprises of a maximum of five members.
2. When the Sub Committee considers matters concerning a Licensee/ Applicant its first purpose is to protect the public. The Sub Committee operates in a quasi-judicial capacity and the rules of natural justice must be observed. The Licensee/Applicant must not only be treated fairly but must also be seen to be treated fairly. The Sub Committee must be impartial, unbiased and must always act in good faith.
3. The Sub Committee is required to make judgements based on the evidence submitted to it. It is not the Members' role to sit as advocates of the Licensing Office, the Police or the Licensee/Applicant but to weigh the merits of each case - ensuring that the proper considerations are taken into account and irrelevant factors are ignored, thereby reaching a balanced decision. The Sub Committee must also state the reasons for its decisions. The Sub Committee does not have the power to "look behind" a conviction to see if the person should have been convicted.



## Appendix 2

4. Only Sub Committee members who have heard the entire application or disciplinary matter are able to take part in the decision making process.
5. Sub Committee members cannot participate in the hearing of a matter if there is apparent bias. This can arise where a Member has outside connections that make it appear that there is a real danger of bias or a member has a prejudicial interest. Personal interest in a matter under consideration must be declared. Where a prejudicial interest exists the member must withdraw from the meeting room.
6. A prejudicial interest exists where a member has a personal interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest and it either:
  - a. affects the financial position of the relevant person or body; or
  - b. relates to the determination of any approval, consent, licence, permission or registration in relation to that person or body.

### Disciplinary or Other Matters

7. In accordance with the Council's constitution, the Sub Committee is authorised to:
  - a. determine the appropriate disciplinary action (if any) to take against licensees referred to it by the Licensing Office; and to
  - b. determine any licensing application or other matter concerning individual licensees referred to it by the Licensing Office.
8. When considering a referred matter e.g. an application for a licence, the Sub Committee will have regard to the appropriate section of the policy.

## Appendix 2

9. Appropriate disciplinary action can take a number of forms, for example:
  - a. Suspension or Revocation of a licence.
  - b. Refusal to renew a licence.
  - c. A warning or final warning letter expressing the Council's concern with
  - d. the Applicant/Licensee's behaviour, whilst also advising that future conduct could lead to a revocation or refusal to renew a licence.
  - e. Additional conditions if considered reasonably necessary may be attached to a licence when it is renewed (note: conditions cannot be attached to a Hackney Carriage Driver's Licence.
  - f. A requirement to attend the Driver Improvement Scheme at the driver's own expense where considered reasonably necessary.
  - g. A requirement to provide further information e.g. the production of a medical more regularly than the standard requirement for drivers.
10. The action taken in any particular case will depend on the seriousness of the conduct/ conviction/medical condition concerned. A licence may be suspended pending further information (e.g. the outcome of an investigation or court action) but suspension will not be used as a disciplinary tool.
11. The purpose of the Sub Committee hearing is to ensure that the Licensee/Applicant and complainant (where applicable) have the fullest opportunity to present all of the information they wish. The Sub Committee is required to give full and fair consideration to the cases presented by the Officers and the Licensee/Applicant and must reach a decision based on all of the relevant information presented to it at the hearing. To achieve this, the following procedure is adopted.

Prior to the Hearing

## Appendix 2

12. Where the Licensing Manager or Assistant Licensing manager refers a matter to the General Licensing Sub Committee for determination the Licensee/Applicant shall be informed of this and a report shall be prepared for the Sub Committee.
13. A full copy of the report to Sub Committee shall be supplied to the Licensee/Applicant by the Licensing Office. Copies of the relevant Private Hire and Hackney Carriage Policies are available on the internet or upon request from the Licensing Office. Licensees/Applicants are strongly advised to read this document when preparing for the hearing.
14. The Licensee/Applicant shall normally be given notice at least seven days in advance of the time and place of the hearing and advised of their right to be accompanied by a friend or other person, including a solicitor. (S)he shall be allowed to call witnesses.
15. The Licensee/Applicant may, if they wish, submit a written statement of his/her case or other supporting documents prior to the hearing. Documentation should be provided to the Licensing Office well in advance of the hearing. If it is not or if the Sub Committee has not had sufficient time to consider the documentation the Sub Committee may refuse to accept the documentation or it may be necessary for consideration of the case to be deferred.

### Absence of the Licensee/Applicant

16. The meeting may proceed in the absence of the Licensee/Applicant if they have informed the Licensing Authority or the Democratic Support Officer that they do not wish to attend or be represented at the hearing. If the Licensee/Applicant would like the meeting to be adjourned to enable them to attend then they must make this clear and provide reasons in writing prior to the meeting.
17. If the Licensee/Applicant fails to attend a meeting without notifying the Licensing Office or Democratic Support Officer, the Sub Committee may adjourn the hearing to a specific date if it considers it to be appropriate to do so. Alternatively it may proceed with the meeting in their absence.

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18. Where the Sub Committee decides to proceed in the absence of the Licensee/Applicant it will consider the information they have available along with the report from the Licensing Manager or their representative.
19. If a decision is made to adjourn a hearing the Licensee/Applicant will be advised of the new date, time and venue.

### At the Hearing

20. The Licensing Manager or their representative shall present the report in the presence of the Licensee/Applicant (subsequently referred to as “the Applicant”).
21. The Applicant shall be invited to confirm the accuracy of the report.
22. The Members may ask any questions they have of the Officer.
23. Where witnesses have attended (e.g. in the case of a complaint) they shall be invited to provide relevant information. Members and the Applicant/their representative may ask any relevant questions.
24. The Applicant or their representative shall present their case and respond to any questions.
25. Where appropriate the Police may be asked to comment.
26. The Applicant will be offered the final opportunity to sum up their case.
27. The Applicant and representative, Officers, the Police and any witnesses shall withdraw from the meeting. Officers from Legal and Democratic Services will remain in the meeting to provide procedural and legal advice.

## Appendix 2

28. The Sub Committee shall deliberate in private, only recalling the Applicant or representative and Officers to clear up points of uncertainty. If this occurs all parties will be invited back into the hearing together. If the Committee has no additional queries then all parties will be called back into the meeting when the Chairman of the Sub Committee will announce the decision of the Sub Committee.
29. The Applicant will be notified of the Sub Committee's decision and the reasons for it in writing, usually within five working days. Where a licence has been revoked or a renewal has been refused written notice must be given within fourteen days.

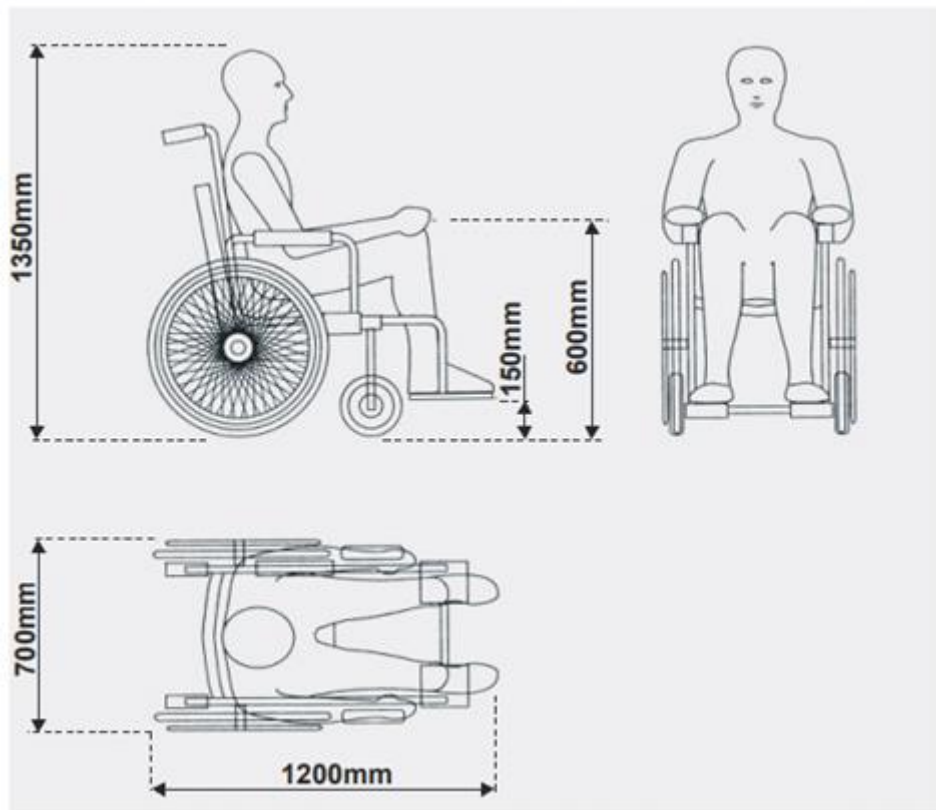
### Appeal to the Court

30. There is a statutory right of appeal to the Magistrates Court in relation to:
- a. A refusal to grant a private hire or hackney carriage driver licence.
  - b. Any conditions attached to a private hire driver licence.
  - c. A decision to suspend, revoke or refuse to renew a private hire or hackney carriage driver licence.
  - d. A refusal to grant a private hire vehicle licence or against any conditions specified in the licence.
  - e. A refusal to grant an operator's licence or any conditions attached to the grant of an operator's licence.
  - f. A decision to suspend, revoke or refuse to renew an operator's licence.
31. An appeal against a refusal to grant a Hackney Carriage vehicle licence is dealt with by the Crown Court.

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32. Any appeal must be lodged with the appropriate Court within 21 days of notification of the decision. This time scale is rigid following case law in 2009 concerning this point.
33. Costs may be awarded by the Court against an unsuccessful appellant and therefore the Applicant may wish to take independent legal advice with regard to the merits of an appeal.
34. Usually, when an appeal has been lodged, any action against the licence is “stayed” pending the outcome of the court appeal (S.77(2)LG(MP) Act 1976) and a licensed driver, operator and or vehicle can continue to work
35. The Sub Committee may decide that a suspension or revocation of a driver licence should take immediate effect in accordance with Section 52 of the Road Safety Act 2006, where they consider it is in the interests of public safety to do so.
36. In such cases, section 77(2) shall not apply and a driver cannot continue to drive pending the outcome of the appeal. In such cases the driver must be notified in writing, with an explanation as to why such action has been taken.
37. Decisions of the Sub Committee may also be challenged by way of judicial review in the High Court. Independent legal advice should normally be sought in respect of all appeals and challenges.

Dimensions of a reference wheelchair



The reference wheelchair has: a total length of 1200mm including extra-long footplates total width of 700mm sitting height (from ground to top of head) of 1350mm. The reference wheelchair is bigger than most wheelchairs to ensure that enough room is provided for most wheelchair users.

Appendix 24

List of Consultees (To be compiled prior to publication)

DRAFT



**GENERAL LICENSING COMMITTEE  
28 July 2020**

ITEM NO. ....

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**MINOR UPDATE OF FEES RELATING  
TO PAVEMENT CAFÉ LICENCES**

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**Responsible Cabinet Member – Councillor Jonathan Dulston  
Stronger Communities Portfolio**

**Responsible Director – Ian Williams, Director of Economic Growth**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To invite Members to determine a new reduced fee for the licensing and operation of Pavement Cafés in the borough of Darlington in line with new legislation.

**Summary**

2. The Council's policy in respect of the licensing of pavement cafes in Darlington town centre was designed to enhance the leisure provision for residents and visitors to Darlington and add to the vibrancy of both the day time and evening economy of the town centre. Well operated pavement cafes are attractive venues for families to enjoy refreshment and add to the ambiance of the town centre.
3. Businesses in the Borough of Darlington have, like many other areas, suffered greatly following the outbreak of the Coronavirus and many of these businesses have been required to close. The hospitality industry has been particularly adversely affected and is in need of stimulation to attract customers with reduced capacity. Greater use of outside space is one method of increasing capacity, whilst not compromising public safety. It has recently been announced by the Government, that many premises, including those within the hospitality trade, are able to open (as of the 4<sup>th</sup> July 2020) provided they adhere to the Government guidance. Whilst this has been welcomed, it has created an extra financial burden on businesses at a time when income has been reduced due to a decrease in customers.
4. The Government has proposed new legislation, Business and Planning Bill which, if passed, is likely to be enacted before the end of the month. This new legislation will be temporary (until 30 September 2021) and has been developed to encourage the consumption of food and drink outdoors where the process of making an application for a licence has been slimlined. This will allow businesses to obtain a licence to place temporary furniture, such as tables and chairs outside of cafes, bars and restaurants quickly, for a fee not exceeding £100. Although this places a 'cap' on how much can be charged it does not preclude having no fee.

Consideration will need to be given that the even maximum fee of £100 is not likely to fund the operation of the scheme, which requires significant work to be undertaken at a rapid pace. Early indications are that there will be at least 18 premises not currently licenced that will apply.

5. As the licensing budget is self-funding, if any incentives are provided to new applicants, those existing licence holders may expect a refund. Nine pavement café licences have currently been issued at a cost of £2,360

6. The current Pavement Café fees are as follows:

<b>Covers</b>	<b>Fee</b>
1 – 10	£200.00
11 – 25	£240.00
26 – 40	£280.00
41 – 60	£320.00
61 – 80	£360.00
81 – 100	£400.00
Over 100	£450.00

7. The current Pavement Café Policy, was revised in March 2014 where the fee's charged were amended to provide some equity between the smaller and larger establishments. Any revised fee would need to take this into consideration.

### **Recommendations**

8. It is recommended that :-

(a) The Licensing Committee follow the Government legislation, namely the Business and Planning Act and are invited to provide clarification on the cost of a pavement café licence. This may be set between the range of no fee, up to £100 for issue until 30 September 2021.

### **Reasons**

9. The recommendations are supported by the following reason:-

(a) To provide a consistent, fair approach to the regulation and control of pavement cafes placed on the Councils public areas and to enhance the use of public space, aid the local economy and add to the facilities offered to people who visit, live, and work in the borough of Darlington.

**Ian Williams**  
**Director of Economic Growth**

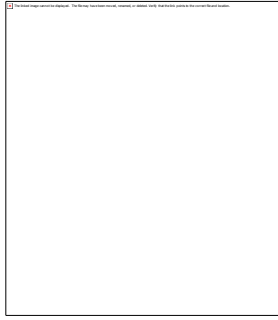
### **Background Papers**

(i) The Highways Act 1980 Section 115E

## **Appendices**

### **1 Current Policy and Conditions**

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# PAVEMENT CAFÉ POLICY



**HIGHWAYS ACT 1980 Section 115E**

Revised March 2014.

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## 1. GENERAL

### Introduction

Alfresco eating is becoming a more widespread aspect of urban life and the presence of tables and chairs on the pavement can make a positive contribution by adding vitality, colour, life and interest to an area. Darlington Borough Council supports and encourages the provision of pavement cafes in the town centre, they can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who visit, live, and work in Darlington.

The idea of a pavement café is to offer the public the chance to eat and/or drink outside. It is not aimed at increasing the overall size of a public house. If the Council considers that the overall effect of an application will result in a significant increase in customers, additional facilities may be required at the premises to meet that need eg. toilets

Whilst the provision of pavement cafes is encouraged, it is important that they are properly administered and managed to ensure that they meet the high standards expected in Darlington town centre. They should not obstruct the highway or create a hazard for pedestrians, especially for blind, partially sighted and other disabled people.

The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops and pedestrian crossings. Pedestrians' needs must be paramount. The expanse of the pavement café must not conflict with any access or dropped crossings that are required for free passage of normal road users. Barriers and tapping rails should be positioned and maintained to the satisfaction of Darlington Borough Council and should be totally removed outside the permitted hours of operation of the café.

The pavement café should occupy an area directly in front of and be visible from your existing premises. Emergency exit routes from your own and adjacent buildings should not be obstructed by the pavement café and emergency service vehicles must have access along all streets at all times, even in pedestrianized streets.

In general, all parts of the highway may be used for Pavement Cafés, assuming all safety and non-obstruction requirements are met. The exceptions are:

- Any carriageway or 'shared use surface'
- Any highway verge
- Where width of the pavement makes it impractical.
- Where authorised street furniture makes it impossible

Licences will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the tables and chairs, or from customers visiting or leaving the licensed area, or
- Where there are concerns over the recorded level of personal injury accidents in the locality where the tables and chairs will be sited, or
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes, or

- There is a conflict with Traffic Orders such as waiting restrictions, or
- The site obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use, or
- The tables and chairs obstruct the safe passage of users of the footway or carriageway, or
- The area to be licensed interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the licence holder, staff and customers to park in a safe manner, or
- The trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- The existing toilet and washing facilities are not adequate to accommodate an increased number of customers using the pavement café or
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage and collection of all refuse associated with their business or
- The Council is not satisfied that applicants have made satisfactory arrangements for the storage of all tables and chairs off the highway without impeding any access or egress from the premises.

In considering the above matters, the standard guidance will be that a licence will only be issued if an unimpeded pedestrian route can be maintained at all times. The route shall ensure that all pedestrians and particularly those with a disability can maintain their normal path where feasible. All applications will be considered on their own merits.

Pavement café licences will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises and employ sufficient staff to provide table service to the outside area.

Pavement café licences will not be issued to self-service premises or takeaway food shops.

The Council will carry out periodic inspections to make sure that all the terms and conditions of the licence are being observed.

A pre-licensing visit will be made to each premise upon receipt of an application for the grant, renewal or variation of a pavement café licence, to discuss the application process, the proposed operation of the café etc. to provide advice and information to the applicant.

Once the pavement café licence has been issued, a further visit will be made to the premises to review the practical day-to-day operation of the café. An additional visit will be made at the end of the 'season' in order to discuss the operation of the café over that period and to determine any revision of policy if necessary.

Any other visits to the premises will be made on a risk rated rationale determined by the findings of the above visits and/or complaints received during the period of the licence.



## 2. DEFINITIONS

In this Policy, the following phrases shall mean:

Pavement Café:	Pavement Cafés are considered to be tables and chairs placed on the public highway (includes pavements) where food and/or drink is served.
Market Day:	Usually Mondays and Saturdays *
Event Day:	Days when special events take place in the Borough
Normal Day:	Any day other than a Market Day when no special event is taking place in the Borough

\* May include craft and farmers markets regularly on Fridays and other specialist markets on Thursdays and other days throughout the year.

## 3. LEGAL SITUATION

Permissions to use the highway for pavement cafes are granted by the issue of licences by the Council as the Highway Authority under Section 115E of the Highways Act 1980.

Tables and chairs placed on the highway without permission are an illegal obstruction and the Council will take enforcement action in such cases.

A fine of up to £1,000 can be levied by a Magistrates Court for obstructing the highway

Granting a licence to operate a pavement café does not imply an exclusive right to the area. The operator of the café should be aware that the Council reserves the right to gain access to the café area for cleaning, repairing and maintaining the highway or street furniture. Other statutory organisations may also require access for maintenance and repair of their equipment. The Council therefore reserves the right to suspend the licence temporarily if, for any reason, it becomes necessary.

If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.

If a person who is served a notice and fails to comply with the notice, the council have the power to take whatever steps are necessary themselves.

Where a council have incurred expenses in the exercise of the power, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the Council from the Licence holder.

Under the terms of the Highways Act 1980, the Council cannot grant permission unless it obtains the express consent of interested frontagers who may be materially affected by the proposal.

Section 115A(7) of the 1980 Act states that “frontagers” means: “the owners and occupiers of any premises adjoining the part of the highway on, in or over which facilities for recreation or refreshment or both, have been, are being or would be provided.

For express consent to be required, the frontage would have to be affected by the placing of the structure etc between his own frontage and the highway, rather than a structure adjacent to his own frontage

The Pavement Café must operate in accordance with the conditions of the licence. Any breach of the conditions may lead to action by the Highways Section and to a refusal of a licence in the future.

The Council will not permit any wheeled refuse containers, beer kegs, bottle crates, A-boards or advertising signs or any other unsightly or unapproved items to be placed on or adjacent to the pavement café area.

The barriers, table, chairs, and layout shall be as agreed by the Council and conform to the plan at all times

Menu or advertising boards will not be accepted as part of the boundary or as a separate advertising opportunity within the pavement café or on the highway.

On expiry of the licence, where there has been an application to renew the licence prior to its expiry, these conditions shall be deemed to remain in force whilst the premises lawfully continue to operate as if a licence was in force. The Licence holder shall make no claims or charge against the Council in the event of the street furniture being lost, stolen or damaged in any way from whatever cause except where the same is attributable to negligence of the part of the Council or any of its officers.

If for whatever period or reason a public liability insurance policy is not in force, the Council shall be deemed to have withdrawn this Licence for the period during which the said policy is not in force and the licence holder may be held liable for obstruction of the highway and prosecution under Section 137 of the Act.

The licence holder shall not cause or undertake any alterations to the highway surface.

The licence holder shall not assign, sub-let or part with his interest or possession of a licence.

The Council may at any time vary the conditions of a Licence.

The Council will not grant a licence to persons under the age of 18 years.

The Council may suspend or terminate a licence if any of the conditions of the licence are breached.

A licence holder may terminate a licence at 21 days' notice by informing the Council in writing.

The licence does not take precedence over Police powers to preserve order.

## **4. PRIVATE LAND**

This policy relates only to pavement cafés on a public highway. (Cafes on private land are not covered by this policy. They may not need a pavement cafe licence though may require planning permission if the structures and fittings are not of a temporary nature.

Land that you might consider to be private may in fact have become highway if the public have enjoyed access over it for at least twenty years or if the Council have formally adopted the land. Before proceeding, it would be wise to check with Planning Services to establish if planning permission is necessary and with the Highways Authority to confirm land ownership. Please see Contacts at Section 19 of this document.

## **5. RIGHTS OF ACCESS**

Authorised Officers of the Council and Police Officers shall have access to a pavement café at all reasonable times.

## **6. ADVERTISING**

Advertising of alcoholic or smoking products or their manufacturers will not be permitted on the barriers or furniture within the Pavement Café area. Advertising may only relate to the premises or business and will require the approval of Darlington Borough Council.

## **7. DESIGNING THE PAVEMENT CAFÉ**

### **7.1 Size and Layout**

The size and layout of the proposed Pavement Café will be dependent upon the characteristics of the site outside of the premises particularly the space available taking into account the needs of other town centre users and it is not appropriate for this Policy to set a standard size for the Pavement Café – see Layout Guide Dimension Criteria below

Plans to be submitted with an application shall be drawn to scale, with dimensions, including areas required, the number of tables and chairs to be provided and pinch points detailing width and length. Applications should take into account market and event days where relevant. Space should be left between the tables and chairs to allow access for all, including wheelchair users.

The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities.

The Pavement Café should:

- occupy an area directly in front of the Applicant's premises;
- be visible from these premises; and
- not extend beyond the width of its frontage.

Emergency routes from adjacent buildings and the Applicant's premises should not be obstructed by the Pavement Café. If the emergency services object to the proposal on safety grounds, it is very likely that the Council will refuse it.

## **7.2 Minimum Unobstructed Space Criteria**

On a normal street, there must remain at least 2.0 metres (6.6 feet) of unobstructed space between the carriageway and the front of the pavement cafe to allow pedestrians to pass by safely.

On streets with high pedestrian usage, there must remain at least 2.75 metres (9 feet) of unobstructed space.

Each case will be judged on its merits and the unobstructed space will be set between 2.0 and 2.75 metres according to the frequency of pedestrian usage and other relevant parameters.

This requirement may however be waived by the Council in certain locations e.g. Skinnergate. In addition, a minimum of 2.0 m shall be left between the edge of the Pavement Café and the edge of any adjacent carriageway or vehicle route.

An absolute minimum clear width of 2.0 metre is required from any single point of obstruction e.g. bollard.

A 2.0-metre wide access to the premise should be kept clear at all times.

## **7.2 Layout Guideline Dimension Criteria**

A table and two chairs are deemed to occupy a minimum of 2.0 metres by 1.0 metre. (this does not include space for circulation)

A table and four chairs are deemed to occupy a minimum of 2.0 metres by 2.0 metres. (this does not include space for circulation)

You must also make allowance for any other equipment and circulation requirements within the area applied for.

## **7.3 Lighting**

The Applicant for a pavement café licence should, if intending to open beyond dusk, carefully consider the level of lighting in the proposed pavement café area. Whilst street lighting may be perfectly adequate for a public highway, it may need supplementing to allow the pavement café to operate safely.

Any additional lighting equipment and supply must be specified in the application to enable its impact upon the highway to be considered.

## **7.4 Tables and Chairs**

All furniture shall be of high quality constructed of wood or metal and approved by the Council. Parasols must not have any advertising on except for the name of the business. The advertising of alcohol or cigarettes is not allowed. All proposed furniture and parasols will be inspected by an Officer of the Council to ensure that they are adequate in quality, construction and colour prior to any licence being issued.

When choosing your furniture you should have regard to the highway surface on which it will stand. Uneven or sloping surfaces may require more sturdy styles of furniture and tables and chairs with narrow or thin legs may cause damage to certain paving.

It may be advisable to discuss this at an early stage and certainly before any furniture is purchased. Full details, including metric dimensions, materials and colours, of proposed furniture, ideally accompanied by photographs, illustrations or drawings, will be required as part of the application.

The Council reserves the right to reject applications where inappropriate furniture is proposed. Plastic tables and chairs will not be acceptable.

Tables, chairs, parasols, barriers, etc. shall not be stored on the highway when the pavement café is not open or when the furniture is not in use. If furniture is stored within the premises, any fire exit or escape route must not be blocked by stored furniture.

The Council reserves the right to refuse a licence to any applicant who has not made suitable arrangements for the internal storage and collection of refuse and to withdraw the licence if the approved arrangements are not adhered to.

The layout of the café's furniture and means of enclosure must provide adequate access and circulation space for all customers including wheelchair users and those with pushchairs, buggies, etc.

Tables and chairs should not be located where they will impede drivers' sight lines or obscure highway signs.

All necessary items shall be removed from the highway if requested by a police officer, an authorised Council Officer or representative of a public utility. These items shall remain off the highway for as long as is required.

## **7.5 Parasols**

To protect customers from excessive ultra violet radiation, parasols shall be available for use at each table if the pavement café area is in direct sun between the hours of 12:00 to 15:00 hours, and a customer requests that a parasol be provided.

Parasol's metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

The design and colour of parasols will not be restricted to a particular type but they should be made of high quality materials and fabric and be of a uniform design and colour. Bright, garish or reflective colours should be avoided.

Parasols, when opened must not overhang the boundary of the pavement café and must remain closed in periods of high winds, Parasols should be safely secured and contained entirely within the boundaries of the pavement café to ensure they do not cause an obstruction or present a danger to any user of the pavement café or any other users of the highway.

In some circumstances, it may be appropriate for larger freestanding parasols covering several tables at once to be used. Each case will be dealt with on its merits.

Garden style umbrellas are not acceptable.

## 7.6 Space Heaters

If you intend to use space heaters their metric dimensions, materials and colour must be specified as part of the application and their proposed locations shown on the site layout plan.

You will also be required to submit a formal risk assessment as required by the Management of Health and Safety at Work Regulations 1999 in support of your application. This should be carried out by a competent person (someone who has knowledge of the law, British Standards, and Health and Safety Executive Codes of Practice and Guidance).

In considering an application, the Council will have regard to the inherent safety of the equipment, its location, storage of Liquid Petroleum Gas cylinders, maintenance and training arrangements.

The Council will consider the adequacy of the risk assessment, which must:-

- identify the hazards e.g. fire, explosion, burns, impact from falling equipment / cylinders
- decide who may be harmed and how
- evaluate the risks and decide whether proposed precautions will be adequate or whether more could be done
- record findings
- review assessment and revise if necessary

## 7.7 Other Furniture

If you propose to use planters within your pavement café, good quality plastic or glass fibre may be permitted as a means of reducing their weight to maintain portability.

At least one children's high chair must be available for customers to use within the pavement café.

## 7.8 Barriers

Barriers or other means of enclosure are required in order to ease pedestrian movement, guide the visually impaired, protect users of the facility and contain the licenced area.

The entire pavement café (apart from entrances) **shall be enclosed in its entirety** with a suitable barrier and space will be required for circulation and access within the enclosed area in addition to that for tables and equipment.

Structures must be sturdy enough to prevent collapse if accidentally walked or stumbled into. They should consist of at least two solid horizontal elements; the lower element should not be more than 155 mm above the ground and the second element between 800 and 1000 mm above the ground.

Hoops or post and chain type barriers and low-level objects will not be acceptable

Barriers must not be permanently fixed to the ground where this is public highway.

Each barrier can incorporate the café logo if desired. The barriers should be supported by suitable 'feet' that do not cause a trip hazard to pedestrians particularly partially sighted people.

## **7.9 Accessibility**

All pavement cafes should be accessible for wheelchair users.

Where access to the pavement café is not level, a suitable and stable ramp shall be provided at all times.

## **8. ALCOHOL**

In order to supply alcoholic drinks at the pavement café you will need to obtain the permission of the Licensing Authority in the form of a Premise Licence. This is an entirely separate consideration to granting a pavement café licence.

Drinks shall not be served to people standing outside the boundary of the pavement café, nor shall people purchasing drinks within the area be permitted to stand and drink or to take them outside of the area.

No alcohol shall be sold or consumed within the designated Pavement Café area unless in compliance with any beverage licence.

A pavement café licence should not be a means to extend the overall capacity of a public house. It is expected that a pavement café shall will enhance facilitates provided by offering food and drink in a pleasant outdoors environment, however, if the service of alcohol only takes place in a pavement café and there is anti-social behaviour or disorder, then the pavement café licence may be reviewed, revoked or not renewed.

Drinking alcoholic beverages directly from bottles is not permitted in the pavement café area. Wine may however, be served from the bottle at outside tables. All glasses should be made of toughened or tempered safety glass, polycarbonate, plastic or paper cups.

The café area should be kept under supervision at all times of its operation and all patrons/customers should be seated at all times.

## **9. SMOKING**

Pavement cafes are not intended to be used as an outdoor smoking area. However, smoking will be permissible where the café is being used as intended for the consumption of food and drink.

Where smoking is permitted, a minimum of two thirds of the pavement café area must be designated smoke free and a **"No Smoking"** sign placed on each table in this area.

If the café consists of two tables or less then no provision shall be made for smoking within the pavement café.

This shall be extended thus

No of tables	Provision of smoking tables
3-5 tables	1 table
6-8 tables	2 tables
9-11 tables	3 tables
12-14 tables	4 tables
15-17 tables	5 tables
18-20 tables	6 tables
21-23 tables	7 tables
24-26 tables	8 tables
27-29 tables	9 tables and so on

Each table where smoking is permitted should be provided with a windproof ashtray that must be emptied each time the table is cleared or vacated

Whilst electronic cigarettes (e-cigarettes) are not classed as a cigarette, licence holders may wish to consider their own policy in relation to their usage in the pavement café.

The term “electronic cigarette” is a generic term and not very helpful since, despite their name, e-cigarettes are totally different from cigarettes. They do not burn tobacco and do not create smoke and are not classed as cigarettes so it is a matter for the licence holder to decide if and where e-cigarettes can be used within a pavement café.

## 10. FOOD

Food businesses are required by law to be registered with the local authority. This is an entirely separate consideration to granting a pavement café licence. This can be done by obtaining an application form from Environmental Health, please see Contacts section on page 15 of this policy.

The pavement café area is to be used only for the service and consumption of food and drink.

The Council expects food provision to be at the very least, the provision of sandwiches, pastries, cakes etc., extending to table meals.

All food offered for sale must be detailed upon a menu or menu board, available to each patron.

Items such as canapés, appetisers, cocktail snacks, nuts, crisps etc. will not be deemed to constitute food for the purposes of the pavement café licence.

Food and drink must not be stored or prepared outside the normal premises as there may be difficulties with temperature control and a risk of contamination. It is imperative that good food hygiene practices are followed at all times.

All the food and drink that is consumed within the pavement café area should be ordered and purchased there.

The crockery and cutlery used in pavement cafes should be of good quality and a uniform style. Plastic plates and cutlery are not acceptable.



Food should be served on plates and not in plastic or cardboard containers or paper bags or other wrappers.

All tables must be cleared of all uneaten food, used crockery, cutlery etc. and properly cleaned of any spillage immediately they are vacated by customers.

Any food spilt on the highway must be removed immediately and the area washed at the earliest opportunity. This will minimise the likelihood of birds scavenging in the area.

If birds roost on buildings or in trees adjacent to the pavement café, applicants should consider providing parasols or some other form of cover in order to minimise the risk of food contamination.

Food should never be placed in an unprotected area where a passing guide or assistance dog could be drawn to it.

The licence holder will be responsible for the cleanliness of the pavement café area at all times. Care should also be taken to ensure that litter does not stray or get blown further afield.

Menus should be readily available either at the tables or on request. A-boards must not be used to display menus or advertise the cafe as they can cause dangerous obstructions to pedestrians.

An area of approximately 5 metres around the site should be kept clear of any stray or windblown litter from the café.

The area should be swept when necessary to keep it clear of litter and refuse. Spillages and breakages, especially of glass and crockery, should be cleared up immediately. Care must be taken to avoid nuisance to customers and to ensure that hazards are not created during this work. The café area should be cleansed at the end of the trading day or as soon as practicable.

At least one suitable litterbin must be provided within the café area at all times of operation. Wheelie bins are not suitable for this purpose

The use of barbecues, rotisseries, ice cream machines, drinks machines or any other equipment for the preparation and / or sale of food and drink for consumption on or off the premises will not be permitted within the pavement café area.

## **11. NOISE**

The issuing of this licence does not in any way permit the playing of live or recorded music for the entertainment of customers using the external area, in order to prevent public nuisance to nearby residents and adjacent premises and cafes.

Advice on how to minimise noise disturbance can be obtained from the Council's Environmental Protection team (see section 19 of this policy for contact details).

## 12. FEES

The current fees payable for the grant and renewal of consent permits are available from the Licensing Office and the Councils website.

Fees are based on the size of the proposed external pavement café area.

Fees are due on an annual basis.

Fees are not refundable if the application is unsuccessful.

Fees are not refundable where a licence is surrendered.

### Variations to Fee Structure

The fee structure is reviewed annually as part of the budgetary process. Notice of the current scale of fees will be supplied to new applicants at the time of application

## 13. INSURANCE

The Licence holder shall indemnify Darlington Borough Council against all liability which may at any time be taken made or incurred in consequence of the use of Pavement Cafés and for this purpose must take out a policy of insurance in the sum of up to £5,000,000. The holder must also produce to the Council, on request, current receipts for premium payments and confirmation of annual renewals of the policy.

## 14. MANAGEMENT

The licence holder is responsible for the satisfactory conduct of people within the pavement café. Rowdy or unruly behaviour may lead to the suspension or termination of the licence.

## 15. HOURS OF OPERATION

The **maximum** permitted hours of operation will be between:

**Monday to Sunday between the hours of 08.00 hours and 22.30 hours**

Please note that these are maximum hours that may be applied for. If there are objections to the total number of hours of operation requested then shorter hours may be offered. If no compromise can be agreed, then the application will be referred to the Council Licensing Committee for consideration.

Please also note that there is no drinking up period therefore licence holders will be expected to manage the laying out and clearing of the pavement café within these hours. Posts, barriers tables and chairs shall not be placed upon the highway before the commencement of operational hours and shall be removed entirely before the end of the operational hours.

The pavement café area shall be cleared of all waste and litter at the end of each and every licensed opening period.

## 16. APPLICATION REQUIREMENTS AND PROCESS

Each application for **grant and/or renewal** will be accompanied by:

- i) A completed application form; and
- ii) Risk assessments covering Health and Safety and
- iii) The prescribed fee; and
- iv) A certificate of Public Liability Insurance of at least £5 million. This must indemnify the Highway Authority against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose, and
- v) Details of brand, type and materials of proposed furniture; and
- vi) Details of any external lighting and heating equipment; and
- vii) Details of opening and closing times, and
- viii) Contact details for the applicant and of the property owner (if different) and
- ix) A site plan to scale of 1:100 (or 1:200 if considered adequate by officers). This should show:
  - The proposed boundaries of the café giving dimensions and distance from kerb line and street furniture such as bollards etc.
  - Building line
  - Kerb line
  - Layout and dimensions of tables and seating
  - Dimensions and points of access
  - Location and dimensions of parasols and any freestanding lighting and/or heating equipment.

If the plan is not to scale and/or does not contain full details with accurate dimensions, then the application will be rejected and returned.

### **Applications shall be sent to**

**Licensing, Darlington Borough Council, Town Hall, Feethams, Darlington. DL1 5QT**

If a licence is transferred then the new licence holder shall produce a certificate of Public Liability Insurance of at least £5 million. This must indemnify the Highway Authority against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose.

## 17. CONSULTATION

### **Grant of Licence**

Where the application is for the grant of a licence, the Council will undertake a full consultation which will include the Police, and various sections within the Council (Planning, Environmental Health, Highways, Utilities, Darlington Association on Disability (DAD), and, if the pavement Café is to be located in the Market place, the Markets Officer will also be consulted.

The Council will publish street notices and will consult with nearby frontages that may be affected. The street notices, in the case of a first time application, will be displayed for a minimum of 28 days at the premise

## **Renewal of Licence**

Where the application is to renew the licence, the Council will consult with the Police and Environmental Health only, unless there is a variation to the hours of operation, the size or layout of the pavement café when the Council will undertake a full consultation.

## **Variation of Licence**

Where the application is to vary the terms of the licence i.e. to increase the number of covers, or to amend the layout of the pavement café, the Council will undertake a full consultation.

## **Transfer of Licence**

Where the application is to transfer the licence, the Council will consult with the Police and Environmental Health only.

## **All Applications**

Applications for a Pavement Café Licence may be submitted with an alternative layout plan that would provide a bigger café area, at certain times or periods, however, only one pavement café layout may be provided at any one time. Pavement cafes licenced areas may not be divided by splitting the café into two discreet areas. .

The Applicant shall provide a written assessment of the risks to which their employees are exposed whilst at work and must also assess whether there are risks to members of the general public that arise out of the general conduct of their business specifically in relation to the highway and also the remedies to such risks.

NB Reviews of risk assessments shall always be carried out when there is reason to suspect that a current assessment is no longer valid or on event days where activities affect the premises and the result of the review must be documented.

## **18. TERMS AND CONDITIONS**

The licences will run from the date they are issued to the following March 31<sup>st</sup> and are, thereafter, renewable annually on April 1<sup>st</sup> at the discretion of the Council.

The pavement café licence must be displayed in a prominent position in an external window facing the frontage.

On certain event days, the pavement café may be required to close. Should this be required a notification will be sent from the Council's Public Events Safety Advisory Group (PESAG) advising of the times and reason for the closure)

## 19. CONTACTS

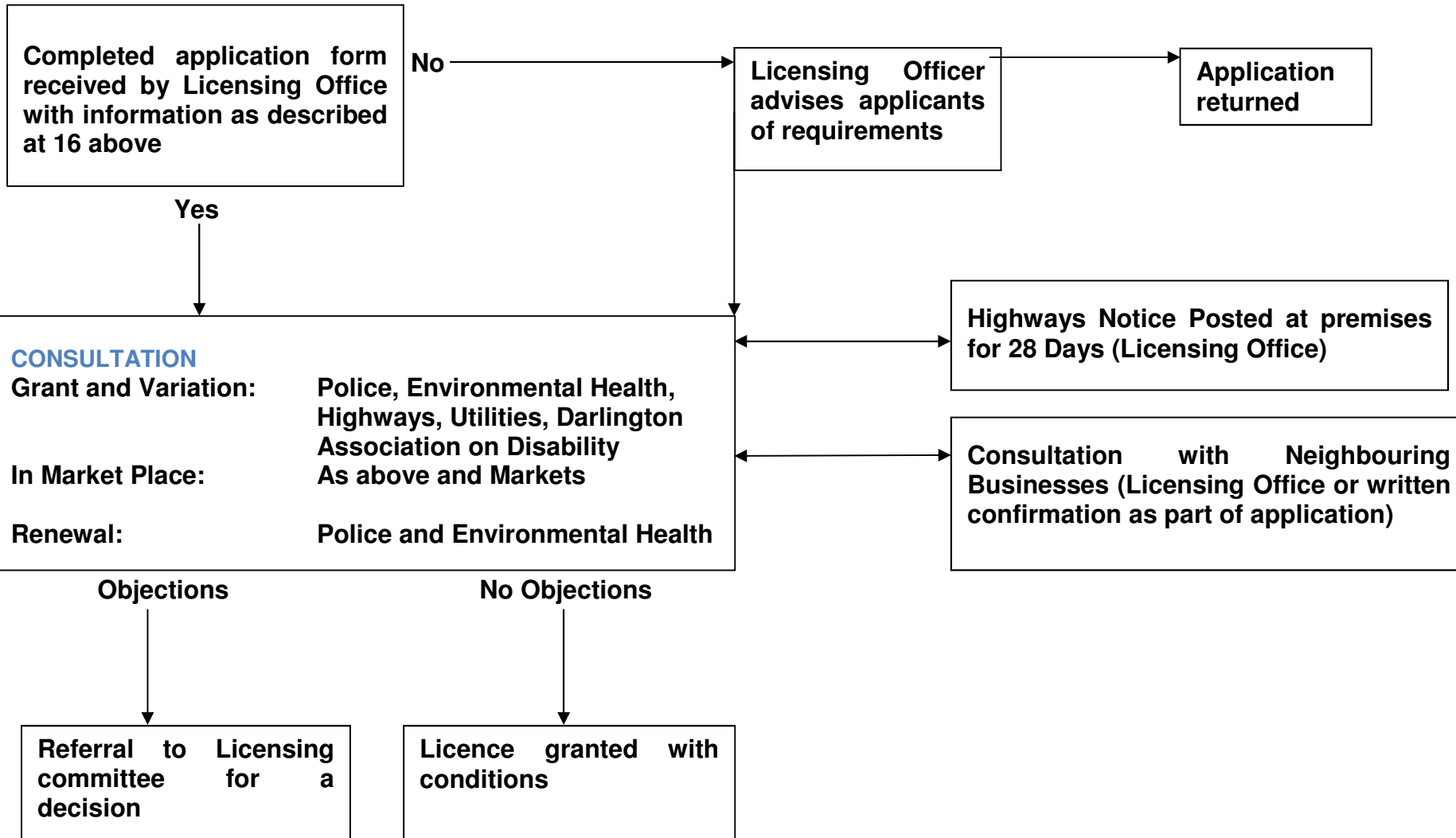
These contact details may prove to be useful:-

<b>Subject</b>	<b>Details</b>
<b>Planning Enquiries</b>	<b>☎ 01325 388082</b> <b>✉ <a href="mailto:planning.enquiries@darlington.gov.uk">planning.enquiries@darlington.gov.uk</a></b>
<b>Highway Enquiries</b>	<b>☎ 01325 388748</b> <b>✉ <a href="mailto:highways@darlington.gov.uk">highways@darlington.gov.uk</a></b>
<b>Market Square/Pedestrian Heart Enquiries</b>	<b>☎ 01325 388692</b> <b>✉ <a href="mailto:markets@darlington.gov.uk">markets@darlington.gov.uk</a></b>
<b>Food/Health and Safety Enquiries</b>	<b>☎ 01325 388566</b> <b>✉ <a href="mailto:customerservices@darlington.gov.uk">customerservices@darlington.gov.uk</a></b>
<b>Licensing Enquiries</b>	<b>☎ 01325 388577</b> <b>✉ <a href="mailto:licensing@darlington.gov.uk">licensing@darlington.gov.uk</a></b>
<b>Durham Police Enquiries</b>	<b>☎ 101 Ext 742782</b> <b>✉ <a href="mailto:ahru@durham.pnn.police.uk">ahru@durham.pnn.police.uk</a></b>
<b>Street Fixtures/Furniture</b>	<b>☎ 01325 388777</b> <b>✉ <a href="mailto:streetscene@darlington.gov.uk">streetscene@darlington.gov.uk</a></b>

## 20. SUMMARY OF PROCEDURE FOR GRANT OF PAVEMENT CAFÉ LICENCE

Complete Information

Not Complete



## 21. STANDARD CONDITIONS FOR PAVEMENT CAFÉ LICENCES

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### Policies

1. Licences shall be granted for a maximum of one year and shall expire on 31 March each year
2. Application Fees are payable in advance and shall not be refunded if application is unsuccessful
3. All licences shall be issued in accordance with the Policy in Relation to Pavement Café Licences revised March 2014.

### General

1. The maximum permitted hours of operation as stated on the attached licence shall not be exceeded without prior permission from the Council.
  2. A copy of the licence and pavement café layout plan must be displayed at the premises at all times.
  3. Food and non-alcoholic drinks must be available at all times when the pavement café is open.
  4. Smoking will be permissible within the pavement café provided the café is being used for the consumption of food and drink.
  5. Where smoking is permitted, a minimum of two thirds of the pavement café area must be designated smoke free and a **“No Smoking”** sign placed on each table in this area.
  6. Each table where smoking is permitted should be provided with an ashtray that must be emptied each time the table is cleared or vacated.
  7. Posts, barriers tables and chairs shall not be placed upon the highway before the commencement of operational hours and shall be removed entirely before the end of the operational hours. The area shall be left clean and tidy and free of any rubbish.
  8. Furniture stored within the premises should not at any time block a fire exit.
  9. The use of advertisement boards is prohibited
  10. The advertising of alcohol or cigarettes is prohibited
  11. Barriers and parasols can advertise the name of the business only.
  12. The café area must be supervised at all times whilst it is operational
  13. No live or recorded music shall be played within any part of the Pavement Café.
  14. Emergency routes from adjacent buildings and the applicant’s premises shall not be obstructed by the pavement café
  15. The licence holder shall not cause or permit any alterations to the highway surface.
  16. The licence holder shall not assign, sub-let or part with his interest or possession of a licence.
  17. The Council may suspend or terminate a licence if any of the conditions of the licence are breached.
  18. A licence holder may terminate a licence at 21 days’ notice by informing the Council in writing.
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19. Authorised Officers of the Council and Police Officers shall have access to a pavement café at all reasonable times.
20. If requested by a police officer or an authorised officer of the Council, all items shall be removed from the highway. These items shall remain off the highway for as long as is required.

### **Management**

21. The licence holder shall be responsible for the conduct of people, both patrons and employees, within the pavement café area.
22. Patrons shall not be permitted to remove food, drinks, crockery or any cutlery from the pavement café.
23. Only patrons seated at tables shall be served or permitted within the pavement café

### **Service**

24. All tables must be cleared of all uneaten food, used crockery, cutlery etc. and properly cleaned of any spillage immediately they are vacated by customers.
25. No alcohol shall be sold or consumed within the designated Pavement Café area unless in compliance with any beverage licence.
26. Food must be prepared on the premises in an appropriate kitchen area.
27. Food and drink must not be stored or prepared outside the normal premises
28. All the food and drink that is consumed within the pavement café area must be ordered and purchased there.

### **Articles used in the Café**

29. All furniture shall be of high quality constructed of wood or metal and approved by the Council.
30. Parasols shall be available for use at each table if the pavement café area is in direct sun between the hours of 12:00 to 15:00 hours, and a customer requests that a parasol be provided.
31. Parasols, when opened must not overhang the boundary of the pavement café and must remain closed in periods of high winds
32. All drinks shall be decanted from the bottle except when a customer has ordered a particular bottle of wine, in which case, the opened bottle may remain on the table or be decanted into a polycarbonate wine container. Staff shall ensure that empty wine bottles are removed from the pavement café immediately.
33. Permitted receptacles to be used within the pavement café are:-
  - . Glasses made of toughened or tempered safety glass
  - . Glasses made of polycarbonate or plastic
  - . Paper Cups
  - . China cups, saucers and plates
  - . Metal Cutlery
34. At least one children's high chair must be available for customers to use within the pavement café.



35. The use of barbecues, rotisseries, ice cream machines, drinks machines or any other equipment for the preparation and / or sale of food and drink for consumption on or off the premises will not be permitted within the pavement café area.

### **Boundary and Barriers**

36. The entire pavement café (apart from entrances) shall be enclosed in its entirety with a suitable barrier, the design and dimensions of which must be agreed, in writing, by the Council. Space will be required for circulation and access within the enclosed area in addition to that for tables and equipment.
37. All activity associated with the pavement café shall be contained within the boundary including tables, chairs and other permitted equipment.
38. The agreed boundary and layout of the pavement café as defined by the plan attached to the Licence shall not be altered without the express permission of the Council.
39. Barriers must not be permanently fixed to the ground on a public highway.
40. Where access to the pavement café is not level, a suitable and stable ramp shall be provided at all times.
41. A minimum distance of 2.0 metres between the edge of the pavement café and the edge of any adjacent carriageway or vehicle route shall be maintained. If the pavement café is on a street with a high pedestrian usage this minimum may be increased to 2.75 metres. An absolute minimum clear width of 2.0 metre is required from any single point of obstruction e.g. bollard.

### **Litter**

42. The licence holder shall keep the area within the boundaries clean and litter free. Any litter that escapes from the inside of the licensed area to the outside of the area shall be collected by the licence holder
43. Suitable litter/refuse bin(s) shall be provided within the pavement café area at all times of operation. The licence holder shall be responsible for disposing of all waste produced at the pavement café

### **Insurance**

44. The licence holder shall provide Public Liability insurance cover for the pavement café and shall indemnify the Council against all claims in respect of injury, damage or loss arising out of the granting of permission, (eg damage to the highway or highway furniture) to a minimum value of £5,000,000 unless such claims arise out of the Council's own negligence.
45. If for whatever period or reason a public liability insurance policy is not in force, the Council shall be deemed to have withdrawn this Licence for the period during which the said policy is not in force and the licence holder may be held liable for obstruction of the highway and prosecution under Section 137 of the Act.





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