

## Appendix 3

### **Private Hire Operator Licences Legislation, Policies and Conditions**

#### **Section 55 Local Government (Miscellaneous Provisions) Act 1976**

##### **Licensing of operators of private hire vehicles.**

- (1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence: Provided that a district council shall not grant a licence unless they are satisfied
  - (a) that the applicant is a fit and proper person to hold an operator's licence; and
  - (b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant's immigration status from operating a private hire vehicle.

In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from operating a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.

- (2) Subject to section 55ZA, every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.
- (3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.
- (4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

##### **Authorised Officers (Legislation, Section 73 LG(MP)Act 1976)**

766. 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)**

767. If you are not a licensed driver you will be required to produce a basic DBS check within the last month which will be required every year.

##### **Location of Operating Premises (Policy)**

768. 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)**

769. 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.

770. 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;
- (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.

771. 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.

772. 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.

773. 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.

774. 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.

775. 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).

776. 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.

777. The new section 55B deals with operator liability in connection with subcontracting. 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).

778. Subsection (2) of new section 55B establishes that an initial operator who subcontracts 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).

779. 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).

780. 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).

781. 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)**

782. 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)**

783. The operator and/or his employees shall not:

(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.

("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)**

784. 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**

#### **PO1. Booking Records (Legislation Section 56 (2)-(4) LG(MP)Act 1976 and Condition PO1)**

785. Operators are required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff to ensure that any individuals added to the register are compatible with their policy on employing ex-offenders.

786. 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.

787. 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.

788. 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;
- registration and 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);

- name of the person who took the booking;
- name of the person who dispatched the vehicle;
- 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 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**

789. 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**

790. You must notify the Council, in writing (or electronically), within 7 days of any change of your personal address.

## **PO4. Change of Business Address**

791. 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**

792. 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.

793. 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.

#### **PO6. Convictions**

794. 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**

795. 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**

796. 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. Use of passenger carrying vehicles (PCV) licensed drivers**

797. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking will not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

798. Where a private hire vehicle is unsuitable, the booker must be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

#### **PO10. Equal Opportunities**

799. 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.

#### **PO11. Facilities for Passengers**

800. 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

(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.

**PO12. Fares**

801. The fare charged by you shall be agreed with the hirer at the time of booking.

**PO13. Parking**

802. 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.

**PO14. Planning and Permission**

803. 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.

**PO15. Right of Access**

804. 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.

**PO16. Standard of Service**

805. 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".

**PO17. Taximeters**

806. 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.

**PO18. Vehicles to be used**

807. 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.

**PO19. Absence**

808. 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.

**Licence Duration (Policy)**

272. 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.