



**North Tyneside Council**

# Regulation and Review Committee

Wednesday, 16 October 2019

**Thursday, 24 October 2019** 0.02, Quadrant, The Silverlink North, Cobalt Business Park, North Tyneside, NE27 0BY **commencing at 6.00 pm.**

<b>Agenda Item</b>	<b>Page</b>
<b>1. Apologies for Absence</b>	
To receive apologies for absence from the meeting.	
<b>2. Appointment of Substitute Members</b>	
To be notified of the appointment of any Substitute Members.	
<b>3. To receive any Declarations of Interest and Notification of any Dispensations Granted</b>	
You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.	
You are also invited to disclose any dispensation in relation to any registerable and/or non-registerable interests that have been granted to you in respect of any matters appearing on the agenda.	
Please complete the Declarations of Interests card available at the meeting and return in to the Democratic Services Officer before leaving the meeting.	
<b>4. Minutes</b>	<b>1 - 34</b>
To agree the minutes of the meeting held on 28 February 2019 and to note the minutes of the Panel meetings held on 14 March 2019, 4 April 2019, 18 April 2019, 6 June 2019, 18 July 2019, 25 July 2019, 26 July 2019, 29 August 2019 and 19 September 2019.	
<b>5. Review of the North Tyneside Hackney Carriage and Private Hire Licensing Policy</b>	<b>35 - 138</b>

Members of the public are entitled to attend this meeting and receive information about it. North Tyneside Council wants to make it easier for you to get hold of the information you need. We are able to provide our documents in alternative formats including Braille, audiotape, large print and alternative languages.

To receive a report informing the Committee of a consultation exercise as part of the review of the North Tyneside Hackney Carriage and Private Hire Licensing Policy.

6. **Corporate Complaints Annual Report**

**139 -  
142**

To inform Regulation and Review Committee of the complaints received by the Authority and progress in relation to the one corporate complaint they have considered during 2018-19.

7. **Annual Review of Council Policy on Court Surveillance**

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To receive a report in relation to the draft Covert Surveillance Policy.

**Circulation overleaf ...**

## **Members of the Regulation and Review Committee**

Councillor Lewis Bartoli  
Councillor Debbie Cox  
Councillor Eddie Darke  
Councillor John Hunter (Deputy Chair)  
Councillor Gary Madden  
Councillor Janice Mole  
Councillor John O'Shea  
Councillor Alan Percy  
Councillor John Stirling (Chair)

Councillor Sean Brockbank  
Councillor Julie Cruddas  
Councillor Cath Davis  
Councillor Nigel Huscroft  
Councillor Maureen Madden  
Councillor Tommy Mulvenna  
Councillor Kate Osborne  
Councillor Margaret Reynolds

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## Regulation and Review Committee

**28 February 2019**

Present: Councillor J O'Shea (in the Chair)  
Councillors J Allan, K Bolger, D Cox,  
P Earley, G Madden, M Madden, D McMeekan,  
J Mole, T Mulvenna, J Osborne, L Spillard and J Wallace.

### **RQ60/02/19 Election of Chair**

**Resolved** that Councillor J O'Shea serve as the Chair of the Committee for this meeting in the absence of the appointed Chair and Deputy Chair of the Committee.

[Councillor J O'Shea in the Chair]

### **RQ61/02/19 Apologies for Absence**

Apologies for absence were submitted on behalf of Councillor A Austin.

### **RQ62/02/19 Substitute Members**

There were no substitute members reported.

### **RQ63/02/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ64/02/19 Minutes**

**Resolved** that the minutes of the meeting of the Regulation and Review Committee held on 15 November 2018 be confirmed as a correct record and signed by the Chair and the minutes of the Regulation and Review Panel meetings held on 29 November 2018, 10 January and 14 February 2019 be noted.

### **RQ65/02/19 Consultation on draft statutory guidance for Licensing Authorities**

The Committee received a report from Public Protection Services which provided information on the current consultation on statutory guidance for Licensing Authorities by the Department for Transport (DfT) in relation to the licensing of taxis, private hire vehicles, drivers and private hire operators.

The Committee was informed that this was the first Statutory Guidance in relation to hackney carriage and private hire licensing published by a Secretary of State using the powers to publish such guidance under the Policing and Crime Act 2017. The DfT had

stated that it expected the recommendations made in the final version of the statutory guidance to be implemented by Licensing Authorities unless there was a compelling local reason not to do so. The Cabinet Member for Community Safety and Engagement had the delegated authority from the Mayor to respond to government consultation papers and the Committee's view, expressed at this meeting, would be submitted to the Cabinet Member for her consideration in formulating the Authority's response to the consultation.

It was noted that many of the areas covered by the consultation were already in operation in North Tyneside. New issues included:

- a) All licence holders should be required to subscribe to the Disclosure and Barring Service (DBS) update service;
- b) Appropriate DBS checks to be conducted every 6 months;
- c) Licensing Authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public;
- d) Licensing Authorities should produce guidance for passengers on making complaints directly to the Licensing Authority that must be displayed in licensed vehicles;
- e) Licensing Authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers;
- f) PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles and PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the register;
- g) PHV operators should be required to provide to the Licensing Authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of their licence;
- h) PHV operators may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking;
- i) Licensing Authorities should carefully consider potential public safety benefits and potential privacy issues when considering mandating that taxis and PHVs have CCTV installed; and
- j) Annex A of the draft statutory guidance provided a list of offences to aid consistency in the 'fit and proper' assessment for licences.

In response to questions the Committee was informed about the differences between the licensing regime for coach drivers and taxis; how the subscription to the DBS service update would operate and the likely cost of this service to drivers and the Authority; how the law treated taxi drivers who were used as courier drivers in the supply of drugs; and the implications of requiring CCTV to be installed inside licensed vehicles.

The Committee was reminded that any guidance would need to be compliant with equalities legislation; that a policy did not fetter discretion and could always be departed from with a reason; and the current requirements of the Authority's current Hackney Carriage and Private Hire Licensing Policy in relation to reading and writing standards.

Members expressed concern regarding the impact the costs of these changes would have on the Trade and the Licensing Authority. The public protection manager explained that the private hire and hackney carriage licensing regime was a self-financing function of the Authority with a ring-fenced budget to meet these costs. When the final statutory guidance was issued and any changes to the Authority's current Policy and arrangements made, a review of the fees and charges of the licensing regime would probably need to be undertaken to ensure it met the costs associated with managing the taxi licensing regime.

A Member mentioned the importance of displaying information on how to complain to the licensing authority about a taxi driver clearly and in a prominent location in the front and rear of every licensed vehicle.

A Member expressed frustration regarding information sharing processes with the courts and cited examples of when drivers had appeared before a panel of the Committee for failing to disclose a conviction gained during the course of their licence. It was considered that there should be a process where the courts informed a licensing authority of any convictions imposed on one of their licensed drivers.

The Committee was reminded of the importance of remembering the passenger and that the safety of the travelling public was the overriding consideration of the licensing regime when considering the response to the consultation.

Members then went through the consultation document to provide a response to the questions and made comments, in addition to those made above, where appropriate. A copy of the Committee's response is attached as an appendix to these minutes.

Members were reminded that they could make a personal response to the consultation if they wanted to. The deadline for submissions was 22 April 2019.

**Resolved** (1) to note the consultation on the Statutory Guidance for Licensing Authorities; (2) for the comments made by the Committee as set out above and the responses to the consultation questions in the appendix to the minutes be submitted to the Cabinet Member for Community Safety and Engagement for her to consider prior to making her response on behalf of the Authority to the consultation; and (3) for information relating to the licensing regimes for coach companies, coach drivers and those operating home to school services for the authority and private hire companies to be provided to the Committee.

#### **RQ66/02/19 Chair's Announcement**

On behalf of the whole Committee the Chair thanked Ms Elizabeth Kerr, Democratic Services Officer, who was leaving the Authority after thirteen years' service and wished her well in her new role at the North of Tyne Combined Authority.

Appendix 1 – Regulation and Review Committee’s response to the consultation on Statutory  
Guidance for the licensing of taxis, private hire vehicles, drivers and private hire operators

Question	Yes/No	Comments
1. Your name and email address. We will only use this if we need to contact you to ask about any of your responses.	N/A	
2. Are you responding: * as an individual?/as a taxi driver?/as a PHV driver?/as a taxi intermediary?/as a PHV operator?/a licensing authority/the police/other (specify)?	N/A	
3. The draft statutory guidance recommends that all those involved in the determination of licensing matters should receive training covering licensing procedures, natural justice, child sexual abuse and exploitation, disability and equality in addition to any other issues deemed locally appropriate (paragraph 2.18). Do you agree with the recommendation?	Yes	
4. The draft statutory guidance recommends a council structure for dealing with licensing matters (paragraphs 2.20-2.24). Do you agree with this proposed structure?	Yes	
5. The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?	Yes	A proportionate approach needs to be taken depending on the significance of the change and whether it related to passenger safety.
6. The draft statutory guidance recommends that all drivers should be subject to an enhanced Disclosure and Barring Service (DBS) with barred lists check for individuals applying for or renewing taxi and PHV driver licences (paragraph 2.32). Do you agree with this recommendation?	Yes	Currently undertaken by NTC



Question	Yes/No	Comments
7. The draft statutory guidance recommends that all licence holders should be required to subscribe to the DBS update service (paragraph 2.38). Do you agree with this recommendation?	Yes	Subject to the fee remaining close to its current £13 a month.
8. The draft statutory guidance recommends that appropriate DBS checks are conducted every 6 months (paragraph 2.39). Do you agree with this recommendation?	Yes	
9. The draft statutory guidance recommends that drivers and operators should be required to notify the issuing authority within 48 hours upon arrest and release, charge or conviction of any motoring offence or any offence involving dishonesty, indecency or violence (paragraph 2.41). Do you agree with this recommendation?	Yes	Consider changing 'within 48 hours' to 'within two working days' for offices which close at weekends/BH.
10. The draft statutory guidance recommends that licensing authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public (paragraph 2.43). Do you agree with this recommendation?	Yes	
11. The draft statutory guidance recommends that a check of overseas criminality information or 'Certificate of Good Character' should be required, when an individual has spent a period of more than 3 continuous months outside the UK when over the age of 18 (paragraph 2.47). Do you agree with this recommendation?	Yes	

Question	Yes/No	Comments
12. The draft statutory guidance recommends that licensing authorities should require applicants / licensees to disclose if they have been licensed elsewhere, or have had an application for a licence refused, or have had a licence revoked or suspended by any other licencing authority (paragraph 2.57). Do you agree with this recommendation?	Yes	
13. The draft statutory guidance recommends that licensing authorities should use tools such as the national register of taxi and PHV driver licence refusals and revocations (NR3) to improve information sharing (paragraph 2.58). Do you agree with this recommendation?	Yes	
14. The draft statutory guidance recommends that the authority considering the application / renewal should consult and consider other licensing decisions in its assessment, when an applicant / licensee discloses they: have had an application refused, or had a licence revoked or suspended elsewhere (paragraph 2.60). Do you agree with this recommendation?	Yes	
15. The draft statutory guidance recommends that multi-agency safeguarding hubs (or similar) should be established by licensing authorities to improve the sharing of relevant information (paragraph 2.64). Do you agree with this recommendation?	Yes	NTC has an established MASH and appropriate information sharing has been utilised by the licensing authority.
16. The draft statutory guidance recommends that licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that must be displayed in licensed vehicles (paragraph 2.66). Do you agree with this recommendation?	Yes	In the front and back of the vehicle and displayed in a prominent location.

Question	Yes/No	Comments
17. The draft statutory guidance recommends that all licensing authorities should require drivers to undertake safeguarding training as a condition of licensing (paragraph 2.72). Do you agree with this recommendation?	Yes	Already required by NTC
18. The draft statutory guidance recommends that all licensing authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers (paragraph 2.79). Do you agree with this recommendation?	Yes	Taking into account all appropriate equality legislation.
19. The draft statutory guidance recommends that licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area (paragraph 2.81). Do you agree with this recommendation?	Yes	NTC is in the process of formalising agreements to do this with neighbouring authorities.
20. The draft statutory guidance recommends that PHV operators (applicants or licensees) should be subject to a basic DBS check (paragraph 2.91). Do you agree with this recommendation?	Yes	
21. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles (paragraph 2.97). Do you agree with this recommendation?	Yes	
22. The draft statutory guidance recommends that PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the above register (paragraph 2.97). Do you agree with this recommendation?	Yes	

Question	Yes/No	Comments
23. The draft statutory guidance recommends that PHV operators should be required to provide to the licensing authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of licensing (2.98). Do you agree with this recommendation?	Yes	
24. The draft statutory guidance that a PHV operator may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking. This would be a condition of the operator's licence (paragraph 2.100). Do you agree with this recommendation?	Yes	This is an important change as these journeys are often made by vulnerable adults and children and should be driven by people who have undergone the Taxi/PHV driver checks.
25. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to record the information detailed in paragraph 2.101. Do you agree with this recommendation?	Yes	
26. The draft statutory guidance recommends that licensing authorities should carefully consider potential public safety benefits and potential privacy issues when considering mandating that taxis and PHVs have CCTV installed (paragraphs 2.104 to 2.109). Do you agree with this recommendation?	Yes	CCTV protects drivers and passengers so this could be worded in such a way that a licensing authority has to have a good reason not to make CCTV mandatory.
27. The draft statutory guidance recommends that CCTV recordings in taxis and PHVs should be encrypted and accessible only by licensing authority officials (if acting a data controller), the police or when subject to a data subject access request (paragraph 2.114). Do you agree with this recommendation?	Yes	

Question	Yes/No	Comments
28. The draft statutory guidance recommends that licensing authorities should consider licensing vehicles with an Individual Vehicle Approval certificate, even if the passenger capacity is unclear, but under the strict condition that the vehicle will not be used to carry more than 8 passengers (paragraph 2.118). Do you agree with this recommendation?	Yes	Already covered by NTC Policy.
29. The draft statutory guidance recommends that the Department for Transport should issue guidance on the assessment of previous convictions (paragraph 2.50). Do you agree with this recommendation?	Yes	
30. Annex A of the draft statutory guidance provides a list of offences to aid consistency in the 'fit and proper' assessment for licences. Do you think that the list provides enough detail to do this?	Yes	
31. Are there any offences that should be added to the list in Annex A?	No	
32. If you answered yes, please list the offence(s) and the period you consider appropriate to prevent the granting of a licence under most circumstances.	N/A	
33. Do you have data relating to alleged offences committed in licensed vehicles either against or by passengers? If you have and are prepared to share this with us please add to your response.	N/A	To be completed by officers.
34. If have any comments or other data that may be relevant to the Impact Assessment please provide this.	N/A	To be completed by officers.

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## **Regulation and Review Committee Panel**

**14 March 2019**

Present: Councillor J Hunter (in the Chair)  
Councillor J Allan, D Cox and J Mole.

### **RQ67/03/19 Apologies for Absence**

Apologies for absence were recorded for Councillor John Stirling.

### **RQ68/03/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ69/03/19 Exclusion Resolution**

**Resolved** that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ70/03/19 Private Hire Drivers Licence Appeal – Mr L**

The Committee received a report by the Senior Manager, Technical Services which outlined the background to an appeal by Mr L against the decision of the Authority to refuse to renew his Private Hire Driver Licence on the grounds that it was not satisfied that he was a fit and proper person to hold this licence.

Mr L was not in attendance as he had an exam at the same time as the meeting. When he had realised that there was a clash he had requested the matter be deferred to the next meeting.

Officers raised no objection to the deferment.

**Resolved** that the consideration of Mr L's case be deferred until the next panel meeting of the committee.

### **RQ71/03/19 Private Hire Driver Licence Disciplinary Referral – Mr F**

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a Private Hire Vehicle drivers licence, Mr F. The Committee was requested to assess Mr F's continued suitability to carry out the duties of a licensed driver.

Mr F attended the meeting and was accompanied by a representative, Mr W.

The Licensing Officer presented the report to the Committee which included information on the reason for the referral and Mr F's criminal and licensing record. It was noted that additional supporting information had been circulated after the publication of the agenda.

The Licensing Officer then answered questions from Members of the Committee.

Mr W sought clarification from the Licensing Officer on a number of points.

Mr W and Mr F then addressed the Committee.

Members of the Committee asked questions of Mr F and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr W, all parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it.

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions, cautions, conduct and medical fitness.

The Committee determined that due to the circumstances of the case, a warning was the most appropriate sanction and would be sufficient deterrent to avoid repetition.

**Resolved** that Mr F be issued with a written warning and reminded of the responsibilities which come with holding a Private Hire Drivers Licence.

### **RQ72/03/19 Private Hire Driver Licence Disciplinary Referral – Mr B**

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a Private Hire Vehicle drivers licence, Mr B. The Committee was requested to assess Mr B's continued suitability to carry out the duties of a licensed driver.

Mr B attended the meeting and was accompanied by a colleague, Mr L.

The Licensing Officer presented the report to the Committee which included information on the reason for the referral and Mr B's criminal and licensing record.



The Licensing Officer then answered questions from Members of the Committee.

Mr B and Mr L then addressed the Committee.

Members of the Committee asked questions of Mr B and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr B, all parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it.

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions, cautions, conduct and medical fitness.

The Committee determined that due to the circumstances of the case a suspension would act as a sufficient deterrent to avoid repetition of the behaviour and allow Mr B time to amend his driving style whilst not carrying members of the public and remind himself of the Highway Code.

**Resolved** that Mr B's Private Hire Drivers licence be suspended for a period of four weeks.

### **RQ73/03/19 Private Hire Driver Licence Disciplinary Referral – Mr M**

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a Private Hire Vehicle drivers licence, Mr M. The Committee was requested to assess Mr M's continued suitability to carry out the duties of a licensed driver.

Mr M attended the meeting.

The Licensing Officer presented the report to the Committee which included information on the reason for the referral and Mr M's criminal and licensing record.

The Licensing Officer then answered questions from Members of the Committee.

Mr M then addressed the Committee.

Members of the Committee asked questions of Mr M and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr M, all parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it.

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions, cautions, conduct and medical fitness.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it. Taking all that had been presented to the Committee and contained within the papers submitted to the meeting, the Committee determined that it did not have sufficient information to make a decision and needed further evidence in relation to the matter to be able to do so.

**Resolved** that a) Mr M's case be deferred to allow the Licensing Team to obtain additional written evidence from Newcastle City Council and Northumbria Police to confirm Mr M's account;

b) should the information on its own provide the members of the Panel sufficient reassurance that Mr M remained a fit and proper person to be licensed by this Authority then, as there were sufficient mitigating circumstances to warrant a deviation from the Policy, he should be issued with a warning as to his conduct and recommended to remind himself of the conditions of his Private Hire Drivers Licence; and

c) should any member of this Panel not be satisfied that the additional information, when provided, was sufficient to agree to b) above, then the case must be considered again at the next available meeting of a Panel when the same Members could attend.

## **Regulation and Review Committee Panel**

**4 April 2019**

Present: Councillor J Stirling (Chair)  
Councillors J Mole, T Mulvenna and J O'Shea

### **RQ74/4/19 Apologies for Absence**

There were no apologies recorded.

### **RQ75/4/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ76/4/19 Exclusion Resolution**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ77/4/19 Appeal Against Dismissal**

The Committee considered an appeal lodged by Mr M against the decision of the Disciplinary meeting that took place on 26 February 2019.

Mr M was in attendance at the meeting, along with his Union representative.

The Chair of the Disciplinary meeting set out the background to the case and the reasons for the decision to terminate Mr M's contract of employment with the Council. The Officer was accompanied by the HR Business Partner that had been in attendance at the Disciplinary meeting.

Members of the Committee and Mr M and his representative were then given an opportunity to ask questions of the Chair of the Disciplinary meeting and the HR Business Partner.

A short adjournment was called to allow Mr M to reflect on the statement made by the Chair of the Disciplinary meeting and prepare any questions.

The Committee then heard the case from Mr M and his Union representative. Members of the Committee and the officers representing the Council were given the opportunity to ask questions.

Both parties were given the opportunity to sum up their case and then withdrew from the meeting to allow the Committee to make a decision.

The Democratic Services Officer, Legal Advisor and Human Resources Advisor (to the Panel) stayed to provide guidance and advice.

**RESOLVED:** that the appeal against the decision of the Disciplinary meeting on the 26 February 2019 to terminate Mr M's employment with the Council be dismissed.

## **Regulation and Review Committee Panel**

**18 April 2019**

Present: Councillor J Stirling (Chair)  
Councillors John Hunter, J Mole and L Spillard

### **RQ78/4/19 Apologies for Absence**

Apologies of absence were received on behalf of Councillor J Allan.

### **RQ79/4/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ80/4/19 Exclusion Resolution**

**Resolved** that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ81/4/19 Combined Hackney/Private Hire Drivers Licence Appeal – Mr L**

The Committee received a report by the Senior Client Manager, Technical Services which outlined the background to an appeal by Mr L against the decision of the Authority to refuse to renew his Combined Hackney Carriage/Private Hire Driver's Licence on the grounds that it was not satisfied that he was a fit and proper person to hold this licence.

Mr L attended the meeting and was accompanied by a representative, Mr L.

A Licensing Officer presented the report to the Committee which included information on Mr L's application, his criminal and licensing record with the Authority and the reason for the refusal. The appeal form with evidence in support submitted by Mr L was also included.

Mr L asked questions of the Licensing Officer.

Members asked questions of the Licensing Officer.

Mr L then addressed the Committee on Mr L's behalf. Mr L then answered questions from Members.

Following a summing up from the Licensing Officer and Mr L, all parties left the meeting to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- a) Uphold the appeal and agree to renew the licence; or
- b) Dismiss the appeal and refuse to renew the licence.

The Committee considered that it was an established principle that a licence was a privilege and not a right and its main concern was the need to maintain high standards amongst licensed drivers and to ensure the protection of the travelling public.

In determining its response, the Committee had regard to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular Chapter 7 which made reference to convictions, cautions, conduct and medical fitness.

**Resolved** that Mr L's appeal be dismissed and the renewal of his combined hackney carriage/private hire driver's licence be refused on the grounds the Committee was not satisfied that he was a fit and proper person to hold this licence.

#### **RQ82/4/19 Private Hire Drivers Licence Appeal – Mr C**

The Committee received a report by the Senior Client Manager, Technical Services which outlined the background to an appeal by Mr C against the decision of the Authority to refuse to renew his Hackney Carriage and Private Hire Driver Licence on the grounds that it was not satisfied that he was a fit and proper person to hold this licence.

Mr C attended the meeting and was accompanied by a representative, Ms W.

A Licensing Officer presented the report to the Committee which included information on Mr C's application, his criminal and licensing record with the Authority and the reason for the refusal. The appeal form submitted by Mr C was also included.

Mr C asked questions of the Licensing Officer.

Members asked questions of the Licensing Officer.

Ms W then addressed the Committee on Mr C's behalf. Mr C then answered questions from Members.

Following a summing up from the Licensing Officer and Ms W, all parties left the meeting to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- a) Uphold the appeal and agree to renew the licence; or
- b) Dismiss the appeal and refuse to renew the licence.

The Committee considered that it was an established principle that a licence was a privilege and not a right and its main concern was the need to maintain high standards amongst licensed drivers and to ensure the protection of the travelling public.

In determining its response, the Committee had regard to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular Chapter 7 which made reference to convictions, cautions, conduct and medical fitness.

**Resolved** that Mr C's appeal be upheld and his hackney carriage/private hire driver's licence be granted with a warning as to his future conduct. The Committee considered the circumstances warranted a departure from the Policy and was satisfied that Mr C was a fit and proper person to hold a licence from this Authority.

[Councillor Hunter left the meeting at this point]

### **RQ83/4/19 Combined Hackney Carriage and Private Hire Drivers Licence Disciplinary Referral – Mr I**

The Committee considered a report by the Senior Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a Combined Hackney Carriage and Private Hire Vehicle driver's licence, Mr I.

The Committee was requested to assess Mr I's continued suitability to carry out the duties of a licensed driver.

As Mr I did not attend the meeting, the Committee first considered whether to proceed in his absence or defer consideration to a future meeting and give him another opportunity to attend. Officers informed the Committee that a copy of the committee report with a letter inviting him to attend the meeting had been hand delivered to his home address and was informed that members of his family resided at that address. No communication had been received from Mr I either in regard to his appeal or to repeated attempts by the licensing team to speak to him regarding the incident. The Committee decided to proceed in his absence.

A Licensing Officer attended the meeting.

The Licensing Officer presented the report to the Committee which included information on the reason for the referral and Mr I's criminal and licensing record. The Licensing Officer then answered questions from Members of the Committee.

Following a summing up from the Licensing Officer, he left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it.

In determining its response, the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions, cautions, conduct and medical fitness.

The Committee determined that having carefully considered the evidence presented at the meeting and the nature of the offence, the committee could not be satisfied that Mr I remained a fit and proper person to hold a combined hackney carriage/private hire driver's licence.

**Resolved** that Mr I's combined hackney carriage/private hire driver's licence be revoked on the grounds of public safety as Members could not be satisfied that he was a fit and proper person to hold a driver's licence.



## **Regulation and Review Committee Panel**

**6 June 2019**

Present: Councillor J Stirling (Chair)  
Councillors S Brockbank, M Madden, J Mole and T Mulvenna

### **RQ01/6/19 Apologies for Absence**

No apologies of absence were received.

### **RQ02/6/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ03/6/19 Exclusion Resolution**

**Resolved** that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ04/6/19 Combined Hackney/Private Hire Drivers Licence Appeal – Mr B**

The Committee received a report which outlined the background to an appeal by Mr B against the decision of the Authority to refuse to renew his Combined Hackney Carriage/Private Hire Driver's Licence on the grounds that it could not be satisfied that he was a fit and proper person to hold the licence.

Mr B attended the meeting and was accompanied by a representative, Mr D Wilson.

A Licensing Officer presented the report to the Committee which included information on Mr B's application, his criminal and licensing record with the Authority and the reason for the refusal. The appeal form in support submitted by Mr B was also included.

Mr Wilson on behalf of Mr B asked questions of the Licensing Officer.

Members asked questions of the Licensing Officer.

Mr Wilson on behalf of Mr B then addressed the Committee and answered questions from Members and the Licensing Officer.

Following a summing up from the Licensing Officer and Mr Wilson on behalf of Mr B, all parties left the meeting to enable consideration of the matter to be undertaken in private.

**Resolved** that (1) Mr B's appeal be dismissed and the renewal of his combined hackney carriage/private hire driver's licence be refused on the grounds that all necessary

documentation had not been supplied and therefore the Committee could not be satisfied that he was a fit and proper person to continue to hold a licence; and (2) that it be proposed that there be a change to the Hackney Carriage/Private Hire Policy in relation to the processing of renewal applications with a requirement to apply to renew 28 days prior to the current licence expiry date.

**RQ05/6/19 Combined Hackney Carriage and Private Hire Drivers Licence  
Disciplinary Referral – Mr H**

The Committee considered a report that outlined the background to a referral relating to the holder of a Combined Hackney Carriage and Private Hire Vehicle driver's licence for Mr H.

The Committee was requested to assess Mr H's continued suitability to carry out the duties as a licensed driver.

Mr H attended the meeting and was accompanied by his representative, Mr D Wilson.

The Licensing Officer presented the report to the Committee which included information on the reason for the referral and Mr H's criminal record. The Licensing Officer then answered questions from Members of the Committee.

Mr Wilson on behalf of Mr H asked questions of the Licensing Officer.

Mr Wilson on behalf of Mr H then addressed the Committee and answered questions from Members and the Licensing Officer.

Following a summing up from the Licensing Officer and Mr Wilson on behalf of Mr H both parties left the meeting room to enable consideration of the matter to be undertaken in private.

**Resolved** that Mr H receive a written warning and reminded that a licence is a privilege and not a right and the warning will be held on file and cited where appropriate should he appear before the Committee in the future..

## **Regulation and Review Committee Panel**

**18 July 2019**

Present: Councillor J Stirling (Chair)  
Councillors John Hunter, J Mole, T Mulvenna and J O'Shea

### **RQ06/7/19 Apologies for Absence**

No apologies of absence were received.

### **RQ07/7/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ08/7/19 Exclusion Resolution**

**Resolved** that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ09/7/19 Private Hire Vehicle Proprietor's Licence Appeal – Mr B**

The Committee received a report which outlined the background to an appeal by Mr B against the decision of the Authority to refuse his application for a Private Hire Vehicle Proprietor's licence on the grounds that the Licensing Authority was not satisfied the vehicle was suitable to license, due to it being fitted with tinted glass which did not meet the specifications contained within the Hackney Carriage and Private Hire Licensing Policy.

Mr B attended the meeting and brought his vehicle for inspection by the Committee.

A Licensing Officer presented the report to the Committee which included relevant information from the Hackney Carriage and Private Hire Licensing Policy in relation to permitted light levels of vehicle windows. The appeal form submitted by Mr B was also included.

Members asked questions of the Licensing Officer. The Committee then inspected the vehicle.

Mr B then addressed the Committee and answered questions from Members.

Following a summing up from the Licensing Officer and Mr B, all parties left the meeting to enable consideration of the matter to be undertaken in private.

The options available to the Committee were:

- Uphold the appeal and agree to re-issue the licence; or
- Dismiss the appeal and refuse to re-issue the licence.

**Resolved** that (1) Mr B's appeal be dismissed and the licence not issued on the grounds that the vehicle (in relation to tinted windows) did not meet the specifications in the Hackney Carriage and Private Hire Licensing Policy and the overriding focus of the policy was public safety.

#### **RQ10/7/19 Private Hire Drivers Licence Appeal – Mr A**

The Committee considered a report that outlined the background to an appeal from Mr A following the revocation of his Private Hire Driver's Licence.

Mr A attended the meeting and was accompanied by his representative.

The Licensing Officer presented the report to the Committee which included information on the reasons for the revocation of Mr A's Licence and a copy of the appeal form. The Licensing Officer then answered questions from Members of the Committee and Mr A's representative.

Mr A's representative then addressed the Committee and answered questions from Members.

Following a summing up from the Licensing Officer and Mr A's representative both parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were:

- Uphold the appeal and agree to re-issue the licence; or
- Dismiss the appeal and refuse to re-issue the licence.

**Resolved** that Mr A's appeal be dismissed and his licence not re-issued on the grounds that the Committee was not satisfied that he was a fit and proper person to hold a licence.

#### **RQ11/7/19 Private Hire Drivers Licence Referral – Mr B**

The Committee considered a report which outlined the background to a referral relating to the holder of a Private Hire Drivers Licence, Mr B. The Committee was requested to assess Mr B's continued suitability to carry out the duties of a licensed driver.

Mr B attended the meeting.

The Licensing Officer presented the report to the Committee which included information on the reason for the referral and Mr B's criminal and licensing record.

The Licensing Officer then answered questions from Members of the Committee.

Following a summing up from the Licensing Officer and Mr B, both parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

**RESOLVED** that Mr B's licence be revoked as the Committee was no longer satisfied that he was a fit and proper person to hold a licence.

#### **RQ12/7/19 Private Hire Drivers Licence Referral – Mr S**

The Committee considered a report which outlined the background to a referral relating to the holder of a Private Hire Drivers Licence, Mr S. The Committee was requested to assess Mr S's continued suitability to carry out the duties of a licensed driver.

Mr S attended the meeting.

The Licensing Officer presented the report to the Committee which included information on the reason for the referral and Mr S's criminal and licensing record.

The Licensing Officer then answered questions from Members of the Committee.

Following a summing up from the Licensing Officer and Mr S, both parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

**RESOLVED** that Mr S's licence be revoked as the Committee was no longer satisfied that he was a fit and proper person to hold a licence.

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## **Regulation and Review Committee Panel**

**25 July 2019**

Present: Councillor John Hunter (Chair)  
Councillors J Mole, T Mulvenna and J O'Shea

### **RQ13/07/19 Apologies for Absence**

There were no apologies recorded.

### **RQ14/07/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ15/07/19 Exclusion Resolution**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ16/07/19 Appeal Against Dismissal**

The Committee considered an appeal lodged by Mr L against the decision of the Disciplinary meeting that took place on 7 June 2019.

Mr L was in attendance at the meeting, along with his Union representative.

The Chair of the Disciplinary meeting set out the background to the case and the reasons for the decision to terminate Mr L's contract of employment with the Council. The Officer was accompanied and supported by an HR Business Partner.

Members of the Committee and Mr L and his representative were then given an opportunity to ask questions of the Chair of the Disciplinary meeting and the HR Business Partner.

The Committee then heard the case from Mr L and his Union representative. Members of the Committee and the officers representing the Council were given the opportunity to ask questions.

Both parties were given the opportunity to sum up their case and then withdrew from the meeting to allow the Committee to make a decision.

The Democratic Services Officer, Legal Advisor and Human Resources Advisor (to the Panel) stayed to provide guidance and advice.

**RESOLVED:** that the appeal against the decision of the Disciplinary meeting on the 7 June 2019 to terminate Mr L's employment with the Council be dismissed.



## **Regulation and Review Committee Panel**

**26 July 2019**

Present: Councillor John Hunter (Chair)  
Councillors J Mole, T Mulvenna and J O'Shea

### **RQ17/07/19 Apologies for Absence**

There were no apologies recorded.

### **RQ18/07/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ19/07/19 Exclusion Resolution**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ20/07/19 Appeal Against Dismissal**

The Committee considered an appeal lodged by Mr SL against the decision of the Disciplinary meeting that took place on 7 June 2019.

Mr SL was in attendance at the meeting, along with a work colleague for support.

The Chair of the Disciplinary meeting set out the background to the case and the reasons for the decision to terminate Mr SL's contract of employment with the Council. The Disciplinary Chair was accompanied and supported by an HR Business Partner.

Members of the Committee and Mr SL and his representative were then given an opportunity to ask questions of the Chair of the Disciplinary meeting and the HR Business Partner.

The Committee then heard the case from Mr SL during his presentation of his case a short adjournment was given on request. Members of the Committee and the officers representing the Council were given the opportunity to ask questions.

Both parties were given the opportunity to sum up their case and then withdrew from the meeting to allow the Committee to make a decision.

The Democratic Services Officer, Legal Advisor and Human Resources Advisor (to the Panel) stayed to provide guidance and advice.

**RESOLVED:** that the appeal against the decision of the Disciplinary meeting on the 7 June 2019 to terminate Mr SL's employment with the Council be dismissed.

## **Regulation and Review Committee Panel**

**29 August 2019**

Present: Councillor J Stirling (Chair)  
Councillors L Bartoli, J Cruddas, John Hunter and J Mole

### **RQ21/8/19 Apologies for Absence**

No apologies of absence were received.

### **RQ22/8/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ23/8/19 Exclusion Resolution**

**Resolved** that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ24/8/19 Private Hire Drivers Licence (Referral) – Mr L**

The Committee received a report which outlined the reasons why Mr L had been referred to the Regulation and Review Committee. The Committee was requested to assess Mr B's continued suitability to carry out the duties of a licensed driver.

Mr L attended the meeting, along with his representative.

The Licensing Officer presented the report to the Committee which included information on the reason for the referral and Mr L's criminal and licensing record.

The Licensing Officer then answered questions from Members of the Committee and Mr L's representative.

Mr L's representative, assisted by Mr L, addressed the Committee and provided an explanation as to the events that had resulted in his referral to the Committee.

Following a summing up from the Licensing Officer and Mr L's representative, both parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or

- revoke the driver's licence.

**RESOLVED** that Mr L's licence be suspended for a period of 4 weeks in order to act as a means of deterring from any future conduct that would not comply with Licence conditions.

## **Regulation and Review Committee Panel**

**19 September 2019**

Present: Councillor John Stirling (Chair)  
Councillors L Bartoli, J Mole and J O'Shea

### **RQ21/09/19 Apologies for Absence**

There were no apologies recorded.

### **RQ22/09/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

### **RQ23/09/19 Exclusion Resolution**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ24/09/19 Appeal Against Dismissal**

The Committee considered an appeal lodged by Mrs A against the decision of the Disciplinary meeting that took place on 24 June adjourned and reconvened on the 3 July 2019.

Mrs A was in attendance at the meeting, along with her union representative.

The Chair of the Disciplinary meeting set out the background to the case and the reasons for the decision to terminate Mrs A's contract of employment with the Council. The Disciplinary Chair was accompanied and supported by an HR Business Partner.

Members of the Committee and Mrs A and her representative were then given an opportunity to ask questions of the Chair of the Disciplinary meeting and the HR Business Partner.

The Committee then heard the case from Mrs A. Members of the Committee and the officers representing the Council were given the opportunity to ask questions.

Both parties were given the opportunity to sum up their case and then withdrew from the meeting to allow the Committee to make a decision.

The Democratic Services Officer, Legal Advisor and Human Resources Advisor (to the Panel) stayed to provide guidance and advice.

**RESOLVED:** that the appeal against the decision of the Chair of the Disciplinary Meeting held on the 24 June & 3 July 2019 to terminate Mrs A's employment with the Council be upheld and Mrs A's employment to be reinstated with a Final Written Warning in place.

## ITEM 5

**Title: Review of the North Tyneside Hackney Carriage and Private Hire Licensing Policy**

### **North Tyneside Council Report to Regulation & Review Committee Date: 24 October 2019**

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**Report from Service Area:** Environment, Housing and Leisure

**Report Authors:** Colin MacDonald  
Senior Manager, Technical & Regulatory Services Tel: (0191) 643 6620

Joanne Lee, Public Protection Manager Tel: (0191) 643 6901

**Wards affected:** All

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#### **PART 1**

##### **1.0 Purpose**

The purpose of the report is to ask Committee to:

- (1) Note the commencement of the consultation of the revised North Tyneside Council Hackney Carriage and Private Hire Licensing Policy.
- (2) Submit any formal response to the consultation exercise via the Chair who will respond on behalf of the Committee.

##### **1.1 Recommendations**

Committee is requested to note the commencement of the consultation exercise and to provide their consultation responses through the available channels.

##### **1.2 Background Information**

###### **1.2.2 North Tyneside Council Hackney Carriage and Private Hire Licensing Policy**

The North Tyneside Transport Strategy, approved by Cabinet in May 2017, commits to managing North Tyneside's transport network effectively, considering all forms of travel including hackney carriage and private hire vehicles and sets out that the Authority will support safeguarding of vulnerable people, for example through hackney carriage and private hire licensing policies and the design of infrastructure.

The North Tyneside Hackney Carriage and Private Hire Licensing Policy ("the Policy") is listed in the Transport Strategy's action and delivery plan and is due for renewal.

At its meeting on 1 April 2019, Cabinet agreed that the Policy should be reviewed and work commenced to update the Policy. This work included consideration of the proposed national statutory guidance, regional transport ambitions and the views of the local trade and transport users.

An officer working group was set up to commence the review of the Policy and make initial amendments to the Policy to bring it up to date. Officers met with the North Tyneside Council Hackney Carriage and Private Hire Licensing Forum where members of the forum were asked to highlight any areas of the Policy that they would recommend be updated.

A revised draft Policy for consultation purposes has been formulated and this is included in **Appendix 1** to this report.

As well as updated legislation, the key amendments proposed to the Policy include:

- Expansion of licensing objectives to include environmental considerations;
- Allowing on line applications;
- Mandatory sign up by drivers/operators to the Disclosure and Barring Service Update Service; and
- Additional offences to be considered as part of application process and the period of time that an applicant must be free from certain convictions before an application for a licence is granted.

In addition, consultation questions are to be asked on several other issues to gauge the views of the trade and wider community on some of the proposed elements of the Policy. These areas include:

- Use of in-car digital advertisements;
- Tinted windows when fitted as standard;
- Amendments to the knowledge test; and
- Introduction of a new objective - the promotion of environmental sustainability, along with age standards for new, replacement and renewal vehicles with lead in times.

A summary of the amendments proposed is included at **Appendix 2** to this report.

On 14 October Cabinet approved the commencement of the consultation of the Policy.

### **1.2.3 Consultation exercise**

A process of public engagement on the proposed updated Policy will commence on 28 October 2019 for 8 weeks. This will include appropriate engagement through the Engagement Hub with residents and businesses including representatives of the hackney carriage and private hire trade and all Members.

Members of the Regulation and Review Committee are asked to make their comments known on the revised Policy either by completing the online survey or by submitting their response to the Chair of Regulation and Review Committee who will provide the response to the Public Protection Manager on behalf of the Committee.



At the conclusion of the consultation period the draft Policy will be brought before Cabinet for its consideration. It is anticipated that the updated Policy will be in place to commence from 1 April 2020.

### **1.3 Decision Options**

- 1.3.1** Note the commencement of the consultation of the revised North Tyneside Council Hackney Carriage and Private Hire Licensing Policy.

### **1.4 Appendices:**

Appendix 1: Revised draft North Tyneside Council Hackney Carriage and Private Hire Licensing Policy

Appendix 2: Schedule of amendments to the Policy

### **1.5 Contact Officers:**

- 1.5.1** Colin MacDonald, Senior Manager, Technical & Regulatory Services, Tel: 0191 643 6620  
Joanne Lee, Public Protection Manager, Tel: 0191 643 6901  
Alan Burnett, Principal Trading Standards & Licensing Officer, Tel: 0191 643 6621

### **1.6 Background Information:**

- 1.6.1** The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author of the report.

1. Local Government (Miscellaneous Provisions) Act 1976
2. North Tyneside Council Hackney Carriage and Private Hire Licensing Policy

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and Other Resources:**

There are no financial implications directly arising from the report. The costs of preparing the revised North Tyneside Council Hackney Carriage and Private Hire Licensing Policy and the associated consultation arrangements can be met from existing revenue budgets.

### **2.2 Legal**

#### **2.2.1 Legislative Framework**

Taxi and Private Hire Vehicle (PHV) legislation is primarily concentrated in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The legislation provides a broad framework for the licensing of drivers, vehicles and operators whereas the detail of how this is done, including standards and conditions, is the responsibility of licensing authorities.

There are a number of other Acts which are also relevant: for example, the Equalities Act 2010 places a duty on local authorities to take steps to meet the needs of disabled people

such as the need for the Authority to provide a list of wheelchair accessible taxis and PHVs.

Whereas Cabinet cannot make decisions in relation to the licensing of individual drivers, vehicles or operators under the legislation, it is permitted to adopt a Policy such as the Hackney Carriage and Private Hire Licensing Policy. The Policy will then be considered by the Regulation and Review Committee when decisions need to be taken in relation to individual drivers, operators and vehicles.

## **2.3 Consultation/Community Engagement:**

### Internal Consultation

Internal consultation will take place with the Cabinet Members, Members and service areas.

### External Consultation

As outlined in section 1.2.3 of the report, an engagement process will commence to enable the Policy to be updated. An online survey will be available for respondees to make consultation responses as well as written responses.

## **2.4 Human Rights:**

There are aspects of the administration of licences that may impact on the human rights of individuals residing in the Borough and licence holders. Article 8 of the European Convention of Human Rights entitles a person to the right to enjoy a private and family life.

Article 6 of the European Convention also entitles an individual to a fair hearing. Any individual appearing before a Regulation and Review Panel will be given an opportunity to express their views.

Article 1 of the First Protocol entitles a person to the peaceful enjoyment of his possessions. A possession may include the goodwill that such a Licence would generate. However, balanced against that is the ability of the Licensing Authority to enforce such laws under the Act as is necessary to control the use of such property, including a licence.

## **2.5 Equalities and Diversity:**

The proposed engagement process would ensure that all persons, groups and organisations will have an opportunity to participate, including those with protected characteristics. An Equality Impact Assessment has been prepared and will be reviewed following the consultation period.

## **2.6 Risk Management:**

There are no risk management implications directly arising from this report. Risks associated with delivery of the Authority's Public Protection function are monitored via the

Technical Services Partnership risk arrangements included within the strategic partnership governance framework.

## **2.7 Crime and Disorder:**

The North Tyneside Hackney Carriage and Private Hire Licensing Policy seeks to ensure the safety of the travelling public and therefore contributes to preventing crime and disorder.

## **2.8 Environment and Sustainability:**

Journeys by hackney carriage and private hire vehicles represent a significant number of daily trips on the local highway network both within the Borough and beyond. The local authorities in the area are currently working on measures to tackle air quality caused by roadside pollution.

Within that wider context, the updated Policy proposes the introduction of a age standard for taxis and private hire vehicles which seeks to positively contribute to improving air quality.

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# HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

DRAFT

## Executive Summary

The aim of this Policy is to protect the public and ensure that drivers and operators are fit and proper persons for the role that they play in local transport provision.

The objectives of this Policy are as follows:

- a) The safety and protection of the public
- b) The protection of children and vulnerable adults from harm
- c) The promotion of environmental sustainability; and
- d) To provide clarity for licensees with respect to the Authority's expectations of them and its decision making process.

North Tyneside Council (the Authority) is aware that the public should have reasonable access to hackney carriages and private hire vehicles because of the important role they play in local transport provision.

Hackney carriage and private hire vehicles are a highly-flexible form of public transport and play an increasingly important role in improving accessibility. Hackney carriage and private hire vehicles are used by all social groups and play an essential role in the provision of the Authority's home to school transport provision.

This Policy supports the Authority's Transport Strategy for 2017-2032 and the principles within that Policy. As well as seeking the protection of the public, the Authority aims to improve the safety, health and well-being outcomes for the people of the Borough and the sustainability of communities and the environment across the Borough.

As the environmental and health impacts associated with emissions from transport operations are now more clearly understood, the Authority has an increased responsibility to ensure that drivers and patrons are protected as far as possible from the adverse impact of vehicle emissions.

The Authority welcomes your consideration of this consultation document and asks that any responses to the consultation are received by 5pm xxx to the following address:

Version Control

Version 1

Approved by Cabinet on:

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## **Introduction**

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#### **1. Hackney Carriage and Private Hire Licensing**

The Authority is responsible for the licensing of hackney carriage and private hire vehicles, their drivers and in the case of private hire vehicles their operators, in the Borough of North Tyneside.

The Authority currently licences 204 hackney carriage vehicles, approximately 1030 private hire vehicles and 1097 licensed drivers.

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 ranks or be hailed in the street by members of the public. A hackney carriage can also be pre-booked. Private hire vehicles too must have no more than 8 passenger seats but they must be booked in advance through an operator and may not ply for hire in the street.

#### **2. Powers and Duties**

In 1977, the Authority adopted Part 2 of The Local Government (Miscellaneous Provisions) Act 1976, (as amended). By adopting Part II of the 1976 Act the Authority is given the powers and duties to carry out licensing functions in respect of hackney carriage and private hire licensing in the Borough of North Tyneside. As such the Authority is responsible for the licensing of private hire drivers, vehicles and operators and hackney carriage drivers and vehicles in the Borough. This document sets out how the Authority will exercise its licensing functions when making decisions about new licence applications, renewal of licence applications and licences currently in force.

#### **3. Objectives**

In setting out this Policy, the Authority seeks to carry out its licensing functions with a view to promoting the following objectives:

- a) The safety and protection of the public
- b) The protection of children and vulnerable adults from harm
- c) The promotion of environmental sustainability
- d) To provide clarity for licensees with respect to the Authority's expectations and its decision process.

In the promotion of the above objectives the Authority will consider the following matters:

- a) The safety and protection of the public:
  - Ensuring that vehicles are safe, clean, reliable and accessible to meet the varying needs of the public;
  - Providing confidence in the system for assessing whether a person is 'fit and proper' to drive a hackney carriage or private hire vehicle.
- b) The protection of children and vulnerable adults from harm.

This Policy:

- Puts protecting the safety and welfare of the public at its core;
  - Specifically takes account of the Authority's safeguarding responsibilities, particularly in relation to children, young people and vulnerable adults and reflects best practice;
  - Makes it clear that the welfare of children and their protection from harm is everyone's responsibility, in particular that prospective and licensed drivers and operators have a duty to promote good safeguarding practices, including awareness of child sexual exploitation and trafficking.
- c) The promotion of environmental sustainability:
    - To encourage the uptake of zero and ultra-low emission vehicles;
    - To only permit licenses for vehicles that comply with the particular age requirements as set out in Chapter 2 paragraph 19 of this Policy.
  - d) To provide clarity for licensees with respect to the Authority's expectations and the decision making process:
    - Clarity of expectations with regards to former convictions and cautions.

This Policy shall apply in respect of new applications, renewals, and other matters connected to the following licences:

- Private hire vehicle proprietor
- Private hire driver
- Private hire operator
- Hackney carriage driver
- Hackney carriage proprietor

This Policy shall also apply in respect of disciplinary and enforcement measures and includes a Code of Conduct to be followed by all drivers licensed under this Policy.

Expansion of objectives to include environmental considerations
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#### 4. **Methods**

The methods to be employed will be:

- Setting the standards for the licensing of drivers, vehicles and operators;
- Periodical licensing and routine inspection of vehicles, with appropriate follow up action if necessary;
- Routine inspection of insurance policies, with appropriate follow up action if necessary;
- Checks of driver's medical condition, criminal record (if any) knowledge of the law
- Investigation of complaints with appropriate follow up action;
- Liaison with the Police, Safeguarding and other agencies regarding issues of mutual concern in relation to offences or the conduct of licensees;
- Taking enforcement and/or disciplinary action including the issue of prosecution proceedings, verbal and written warnings, advice, written cautions, notices, suspension or revocation of licences for breaches of legislation or conditions;
- Conditions added to licences;
- Enforcement of the Byelaws;
- Liaison with the hackney carriage and private hire trade by way of open meetings;
- The issue of guidance notes.

When considering applications and taking enforcement action the Authority as a Licensing Authority is also subject to the Regulators' Code published by the Department for Business, Energy and Industrial Strategy and will have regard to the statutory principles of good regulation as required by the Legislative and Regulatory Reform Act 2006 and the Authority's Enforcement Policy.

Please see link below to the Authority's Enforcement Policy.

<http://my.northtyneside.gov.uk/category/691/statement-enforcement-policy>

In particular:

- Regulators should carry out their activities in a way that supports those

- they regulate to comply and grow;
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views;
- Regulators should base their regulatory activities on risk;
- Regulators should share information about compliance and risk;
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply;
- Regulators should ensure that their approach to their regulatory activities is transparent.

## 5. **Best Practice Guidance**

In formulating this Policy consideration has been given to the available best practice guidance issued by the Department for Transport and the Department for Business, Energy & Industrial Strategy.

## 6. **Status**

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

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

## 7. **Implementation and Review**

This Policy will take effect on xxxx

The Authority 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.

Upon implementation of this Policy, the Authority requires licensees to comply with its terms immediately. Where it is not possible to comply with part of the Policy due to outstanding action required by the Authority information will be provided as to an implementation date for that part of the Policy.

**From the effective date, this Policy overrides and supersedes all existing policies in relation to private hire and hackney carriage licensing.**

The Authority may monitor and review this Policy or areas of the Policy prior to the five year review period.

After the introduction of this Policy, the Authority may make decisions which change the content of this Policy. The changes may have immediate effect or be expressed as coming 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 Section and via the internet at

## 8. Consultation

In preparing this Policy the Authority has consulted with and taken into account the views of amongst others:

- Current licensees
- Northumbria Police
- Local businesses and their representatives
- Residents and their representative bodies
- Local transport providers
- Disability Groups
- Planning Authority
- Service users
- Environmental groups
- Neighbouring Authorities (including the North East Combined Authority, North of Tyne Combined Authority and the Tees Valley Combined Authority)
- Representatives from the charitable and voluntary sector

The views of all of these persons and bodies have been taken into account in determining this Policy.

## 9. Area and Impact

North Tyneside is one of the five metropolitan districts that comprise the county of Tyne and Wear. North Tyneside is bounded by Newcastle upon Tyne to the west, the North Sea to the east, the River Tyne to the south and Northumberland to the north.

The A19 runs from north to south and the A1058 Coast Road runs from east to west within the Borough. Recent growth has come in the A19 corridor with new industrial estates and retail parks. There is also an International Ferry Terminal.

The late night economy of the Borough is principally centred around Tynemouth and Whitley Bay where a number of entertainment premises are situated. Activity is also centred on restaurants, public houses and takeaway establishments in areas such as North Shields and Wallsend.

The Authority recognises and welcomes the contribution that the Hackney Carriage and Private Hire trade makes to the transport and tourism industry.

Hackney carriage and private hire vehicle journeys represent a significant number of daily trips on the local highway network both within North Tyneside and the wider area. The majority of these journeys are made along key local and regional arterial routes on which air quality and in particular nitrogen dioxide (NO<sub>2</sub>) issues have manifested themselves on some of these routes.

Local Authorities in the area are working on measures to address the issue of poor air quality in the areas identified as having an issue with poor air quality which may include some form of road user charging that would be applicable to hackney carriage and private hire vehicles.

Improving local air quality forms part of the Authority's Transport Strategy for 2017 -2032 and hackney carriage and private hire vehicles have an important role in helping the Authority deliver this outcome, particularly given the comparatively higher mileage undertaken by hackney carriages and private hire vehicles on local roads compared to other passenger vehicles.

Detail of link to Transport Strategy
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## 10. **Partnership Working**

The Authority will work in partnership with the following agencies and individuals to promote the licensing objectives and to safeguard the general public particularly vulnerable members of society when using the hackney carriage and private hire trade:

- Local Hackney Carriage and Private Hire Trade
- Safeguarding Services
- Northumbria Police
- Local Transport authorities and committees
- Local residents
- Disability Groups
- Service users and their representatives
- Driver and Vehicle Standards Agency (DVSA)
- HM Revenue and Customs
- Department for Work and Pensions
- Other Council Departments
- UK Border Agency
- Other Government Departments and Agencies

The Authority holds regular meetings with the hackney carriage and private hire trade to consider current and future licensing issues.

## 11. **Related Legislation and Strategies**

This Policy will be integrated as far as possible with local planning, transport, tourism, equality cultural and environmental strategies, and other plans introduced for the management of the Borough and night-time economy.

The Authority will work in partnership with other agencies.

## 12. **Equality**

As an employer and service provider the Authority is committed to ensuring equality in employment and service delivery. To achieve the above standard

the Authority is aware of its duties and obligations under the following legislation:

- Human Rights Act 1998
- Equality Act 2010

### 13. **Duties and obligations under Equality Act 2010**

The Authority will consult on and monitor the impact of this Policy to ensure that those making applications are treated in accordance with their needs. The Authority also recognises the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010 (the 2010 Act) which it must have regard to when exercising its licensing functions.

In applying this Policy the Authority will at all times endeavour to comply with its obligations under the 2010 Act and the Human Rights Act 1998.

Providers of hackney carriage and private hire transport are deemed to be providers of services to the public for the purposes of Part 3 of the 2010 Act. A statutory Code of Practice has been published and provides guidance on specific issues associated with the 2010 Act. Licensees and applicants should read the Code of Practice and ensure that they operate having due regard to the Code and in compliance with the 2010 Act.

It is a condition of a vehicle licence that wheelchair accessible vehicles must have the appropriate equipment so as to transport passengers in wheelchairs at all times. In instances where this is not the case the licence for the vehicle may be suspended until such time as the Authority considers the vehicle is fit for purpose.

In accordance with the 2010 Act the Authority holds a list of wheelchair accessible vehicles (designated vehicles). The Act requires the drivers of such designated vehicles to carry passengers in wheelchairs provide assistance to such passengers and prohibits drivers from charging such passengers extra.

The Department for Transport has published statutory guidance called *Access for Wheelchair Users to Taxis and Private Hire Vehicles* and drivers of wheelchair accessible vehicles are encouraged to read and understand that guidance.

It is a criminal offence for drivers of wheelchair accessible vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra.

All licensed drivers are under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles and passengers with disabilities and provide assistance to such passengers without 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 to the satisfaction of the Licensing Authority. A register will be kept by the Authority of exempted drivers.

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

Updated information on list of wheelchair accessible vehicles (designated vehicles) and the responsibilities that drivers have to customers with protected characteristics under the 2010 Act.

#### 14. **Right to live and work in the UK**

Under the Immigration Act 2016 all individual applicants for private hire operator and private hire and hackney carriage driver licences are required to prove that they have a right to live and work in the UK before being considered for a licence. A list of suitable documents that are required is available from the Licensing Section.

Please see the following link (information is contained on pages 25/26 of the attachment) <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

A licence will not be granted until the applicant is able to prove that they have a right to live and work in the UK. If an applicant has only limited leave to remain then any licence will only be issued for this period of time.



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

### **Contents**

1. Specifications
2. Private Hire Vehicles
3. Hackney Carriage Vehicles
4. Limitation of Numbers
5. Location of Applicant's Home/Business
6. Insurance
7. Advertisements, signs, notices etc.
8. Accident notification
9. Vehicle testing
10. Application Procedure
11. New applications and Replacement Vehicles
12. Renewal applications
13. Change of address
14. Transfer of interest
15. Limousines
16. Executive Hire Private Hire Vehicles
17. Tinted Windows
18. CCTV in vehicles
19. Environmental Considerations
20. Emission/Age standards
21. Insurance "Write Off" Vehicles
22. Conditions

### **1. Specifications**

The Department for Transport Best Practice Guidance issued in 2010 recommends that 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.

All vehicles, therefore, shall have an appropriate "type approval" which is either:

- European Whole Vehicle Type approval;
- British National Type approval; or
- British Individual Vehicle Approval (IVA).

As a guide, most large volume production vehicles produced in the UK and EU member 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 member state since its original manufacture will require separate IVA and/or Department for Transport approval and such documentation must be submitted with an application for a hackney carriage or private hire vehicle licence.

The seating capacity of a vehicle will be determined by the Authority. 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.

Where the seating in the vehicle does not conform with the specifications in this Policy or for other reasons associated with the safety and comfort of passengers, the Authority may reduce the permitted number of passengers that may be carried in the vehicle from that specified by the vehicle manufacturer.

**Appendix A** sets out the minimum standards which are expected in respect of licensed vehicles.

## 2. Private Hire Vehicles

A private hire vehicle is a motor vehicle constructed or adapted to seat no more than 8 passengers which is provided for hire with the services of a driver for the purpose of carrying passengers. All hirings 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. In determining what vehicles fall within this definition the Authority will give consideration to the 'Best Practice Guidance on Taxi and Private Hire Licensing' issued by the Department of Transport in 2010.

The Authority must be satisfied that the following criteria are met before granting a licence:

That the vehicle is:

- Suitable in type, size and design for use as a private hire vehicle
- Not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage
- In a suitable mechanical condition
- Safe
- Comfortable

Conditions may be attached to the grant of a licence as are considered reasonably necessary. Vehicles which are licensed with another Authority will not be licensed by this Authority.

In addition to the above legislative requirements the Authority has imposed conditions relating to the size and other specifications of the vehicle. These are attached at **Appendix A**.

All private hire vehicles must:

- Not be black in colour; or be any colour, which, in the opinion of the Authority, closely resembles black.
- 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 and be of a type approved by the Authority.

- Display a yellow licence plate, which must be securely attached to the exterior rear of the vehicle as prescribed by a condition of the Authority.
- Display a yellow decal provided by the Authority and attached centrally to each front door of the vehicle as prescribed by a condition of the Authority.
- Display a disc in the top nearside corner of the front windscreen

General conditions are attached to a private hire vehicle licence relating to the identification of the vehicle and safety issues. These are attached at **Appendix B**.

### 3. Hackney Carriage Vehicles

A hackney carriage is a wheeled carriage 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.

A hackney carriage can ply for hire within the prescribed area and also wait at a hackney carriage stand within the licensing district. In addition a hackney carriage may also undertake work on a pre-booked basis.

Conditions can be imposed upon the grant of a hackney carriage proprietor's licence and the Authority has byelaws to control the conduct of both proprietors and drivers. These Byelaws are attached at appendix I to this Policy.

The Authority has imposed requirements relating to the size and other specifications of the vehicle. These are attached at **Appendix A**.

General conditions are attached to a hackney carriage vehicle proprietor's licence relating to the identification of the vehicle and safety issues. These are attached at **Appendix B**.

All hackney carriages must:

- Be black in colour
- Be fitted with an approved roof sign bearing the word "TAXI" as prescribed by the Authority
- Be fitted with a meter of an approved type with the fares charged as determined by the Authority
- Meters, after being checked for accuracy, must be sealed by Officers of the Authority or an agent approved by the Authority.
- Display a white licence plate, which must be securely attached to the exterior rear of the vehicle in the vicinity of the bumper
- Display a white decal provided by the Authority and attached centrally to each front door of the vehicle as prescribed by a condition of the Authority.
- Display the current table of fares as prescribed by condition of the Authority.
- Display a disc in the top nearside corner of the front windscreen

#### **4. Limitation of Numbers**

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

The present legal provisions on quantity restrictions 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 person authorised to grant licences 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”.

Any new application for a hackney carriage proprietor’s licence that would be in excess of that number will be refused if the Authority 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.

The Authority is satisfied that there is no significant unmet demand for hackney carriage services within this area. Therefore it has placed a limit on the number of hackney carriage vehicle licences issued. This limit has been placed at 204 following consideration of the results of an independent study.

The current limit includes grandfather rights granted to proprietors of saloon vehicles. These rights permit the continued use of a saloon vehicle by proprietors who were granted their hackney carriage proprietor’s licence prior to July 1992. These rights are to remain and encourage a mixed fleet of hackney carriage vehicles consisting of saloons and wheelchair accessible vehicles. It is recognised that users with some medical conditions will find saloons easier to access than wheelchair accessible vehicles.

This limitation of numbers will be periodically reviewed and this Policy will be amended to take account of the results as required.

#### **5. Location of Applicant’s Home/Business**

When an applicant wishes to licence a vehicle as a hackney carriage the Authority will require information, pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976, as to whether the applicant intends to use the vehicle to stand or ply for hire in the Authority’s area and also if the applicant intends to use the vehicle entirely or predominantly remotely from the Authority’s area on a pre-booked basis.

Whilst each application will be considered on its own merits, the Authority will have regard to the geographic location of an applicant’s home and business address.

If the Authority believes that the hackney carriage is to be used entirely or predominantly remotely from the Authority’s area on a pre-booked basis, then the application for a licence will normally be refused.

If the Authority believes that an existing hackney carriage is being used predominantly outside the Authority's area on a pre-booked basis with an Operator who is not licensed by this Authority, then having regard to the judgment in *Newcastle City Council v Berwick-upon-Tweed Borough Council [2008] EWHC 2369 (Admin)* the matter will be referred to the Regulation and Review Committee.

## 6. **Insurance**

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

It is an offence to use a vehicle without the appropriate insurance in place.

Requests to produce evidence of the appropriate 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.

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

## 7. **Advertisements, signs, notices etc.**

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

- Any sign, notice or other marking required to be displayed by legislation or any condition attached to this licence
- Advertising on the rear doors, rear wings and boot area of the vehicle (of two-dimensional insignia type) approved by the Authority
- Advertising along the top 8 cm strip of the windscreen of the vehicle provided that it is not illuminated and it bears only the name and/or telephone number in block letters of the firm operating the vehicle.
- [Some in car digital advertising]

Addition to allow in car digital advertising if in accordance with the approvals contained in this Policy.

Q1. Do you agree or disagree with the addition of an exception for in car digital advertisements? Please provide the reasons for your response.

Signs, notices or advertisements must not be of a content that the Authority 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).

The Head of Environment, Housing & Leisure can approve or refuse to allow advertisements in the areas permitted in this Policy. All advertisements have to

be approved by the Head of Environment, Housing & Leisure prior to being displayed on or in a vehicle. Any unauthorised advertisements will be required to be removed and appropriate action taken.

The Head of Environment, Housing & Leisure can approve or refuse requests for advertising on the lower area of the front doors of private hire and hackney carriage vehicles. Such advertising to be for the purpose of promoting a private hire operator, a hackney carriage proprietor (or group of proprietors) licensed by the Authority.

Any queries regarding advertisements must be referred to the Licensing Section of the Authority.

#### 8. **Accident notification**

The proprietor shall notify the Licensing Section of the Authority in writing as soon as reasonably possible, or in any case within 72 hours, of any accident involving a licensed vehicle that results in damage materially affecting the safety, performance, or appearance of the vehicle or the comfort or convenience of potential customers. In certain cases the vehicle licence will be suspended.

The proprietor must comply with any reasonable request to produce the vehicle for inspection at the Authority's offices or other specified location so that its roadworthiness can be assessed. Any failure to do so is an offence and the appropriate action will be taken. Following the repair the level of damage will be assessed and the Authority may require an engineer's report and / or the vehicle to be examined at the Authority's Test Station.

#### 9. **Vehicle testing**

All vehicles must undergo and satisfy an inspection by the Authority's vehicle examiners or at a place specified by the Head of Environment, Housing & Leisure prior to being licensed.

It is the proprietor's responsibility to ensure that a licensed vehicle is roadworthy and fit for hire and reward purposes at all times.

Vehicles are to be tested in accordance with the Vehicle Testing Arrangements (attached at **Appendix C**). The Testing Station may also be directed to look at other issues identified by a Licensing Officer. If the event of the Testing Station being unavailable the Authority will put alternative arrangements in place.

Q2. Which of the following options do you prefer:  
That the only testing station vehicles can use is one provided by North Tyneside Council?  
That other authorised testing stations within North Tyneside can also be used?  
I do not have an opinion on this proposal.  
Please provide the reasons for your response.

Vehicles that are 4 years old and over at the time of the licence being granted will

require an interim test. Vehicle proprietors will be required to produce their vehicle for testing when requested. The fee for this interim test will form part of the annual licence fee. Vehicles that are 3 years old on the date the licence is granted but turn 4 years old during the one year term of the licence are excluded from the routine requirement to undertake an interim test. Such vehicles may still be requested to be presented for inspection and test in accordance with the statutory provisions.

Vehicles failing to attend for test or attending late for the test will be required to be retested and a retest fee paid. Where appropriate the licence will be suspended. A further test appointment will only be made when the retest fee has been paid.

The Lifting Operations and Lifting Equipment Regulations 1998 (often abbreviated to LOLER) place duties on people and companies who own, operate or have control over lifting equipment. This includes all businesses and organisations whose employees use lifting equipment, whether owned by them or not.

The regulations require that the inspection interval is 6 months, for lifting equipment and any associated accessories used to lift people. Any licensed vehicles containing this equipment should provide evidence of a LOLER inspection report every 6 months.

## 10. **Application Procedure**

Applications are to be made in writing and may be made in person, by post, online or e-mail. Note: the Authority will not be responsible for any documents that may be lost in the post.

Applications will not be considered valid unless they contain all the relevant documentation and the appropriate licence fee has been paid.

For the purposes of licensing, a hackney carriage or private hire vehicle licence will be issued in the name of the registered keeper of the vehicle. The registered keeper can be an individual or a company. Where the registered keeper is a company, details of the person who will be responsible for the vehicle will be included on the licence.

The booking of vehicle tests may be done by telephone, in person, online or by e-mail at [taxi.licensing@northyntside.gov.uk](mailto:taxi.licensing@northyntside.gov.uk). Postal or e-mail applications must be made at least 10 working days prior to the date of the vehicle test to allow for the application to be processed.

If the application is refused the fee will be refundable minus the proportion of the charge for the test fee.

The Head of Environment, Housing & Leisure has the discretion to attach, amend or remove a condition of licence.

Although applications may be made by post, fax or e-mail, licence plates must be collected in person.

Insertion to allow applications to be made on line where available
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## 11. **New Applications and Replacement Vehicles**

The following documents are to be submitted for new/replacement vehicle applications:

- Fully completed application form
- Pre-Test Inspection form (PTI) - approved
- Vehicle test certificate - pass
- Vehicle registration document in applicant's name (or proof of purchase identifying applicant as purchaser if newly purchased vehicle). (An order form is insufficient for this purpose)
- Appropriate valid certificate of motor insurance for date of intended business use.
- LOLER certificate (where applicable)
- Conversion certificate (where applicable).  
Note: the Authority provides a service to carry out LOLER testing and conversion/installation inspections. Additional fees apply. Further information is available from the Licensing Office or on the Authority's website.
- Taximeter certificate (where applicable)

Fees:

- Licence fee. Please note the fee differs depending on the age of the vehicle and the type of licence applied for.

## 12. **Renewal Applications**

The following documents are to be submitted for renewal vehicle applications prior to the expiry of the licence:

- Fully completed vehicle renewal form
- Vehicle test certificate – pass
- Appropriate valid certificate of motor insurance for date of intended business use.
- LOLER certificate (where applicable).  
Note: the Authority provides a service to carry out LOLER testing. An additional fee applies. Further information is available from the Licensing Office or on the Authority's website
- Taximeter certificate (where applicable)

Fees:

- Licence fee. Please note the fee differs depending on the age of the vehicle and the type of licence applied for.

There is no legal requirement for the Authority to send out reminders for renewals



for licences, but to aid vehicle proprietors the Licensing Section of the Authority will endeavour to do so. However, the responsibility rests with the proprietor to ensure documentation is provided within the appropriate timescales. Where an application to renew a vehicle licence is not received prior to the expiry of the licence, the licence will not be renewed. In such cases a new application will be required and a higher licence fee will apply.

13. **Change of address**

The proprietor must advise the Authority in writing within 7 days of a change of business or home address during the period of the licence. There is no fee for this process.

14. **Transfer of interest**

The proprietor shall notify the Authority in writing, 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.

Where a proprietor wishes to be removed from the licence the Authority should be notified in writing within 14 days. There is no fee for this process.

15. **Limousines**

A stretch limousine is a luxury saloon car with a lengthened wheelbase and an extended chassis.

The Authority recognises the role limousines have to play in the private hire trade to meet a public demand and as such it is necessary for them to come under the licensing system and the controls that this will allow. The Authority, however, has not developed a separate licensing regime for such vehicles. Rather it has widened the criteria of the current vehicle specifications that licensed vehicles must meet. Please see **Appendix A**.

Most limousines are imported for commercial purposes and are required to take an individual vehicle type approval (IVA) test. This ensures that the vehicles meet modern safety standards and environmental standards before being used on public roads.

The Authority has no objection to licensing limousines that are safe and fit for the road. The Authority has given consideration to left hand drive vehicles and vehicles with side facing seats, however, it believes that such vehicles are not suitable due to the safety issues that exist with such vehicles and as such will not licence them.

There shall be no sale or provision of alcohol from any vehicle without a current premises licence under the Licensing Act 2003 being in force. Note: Under section 156 of the Licensing Act 2003 it is an offence to sell alcohol from a moving vehicle.

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.

A vehicle does not need to be licensed while it is being used in connection with a wedding.

## 16. **Executive Hire Private Hire Vehicles**

Private hire vehicles (not hackney carriages) used solely and exclusively for executive hire can be exempted under Section 75 (3) of the Local Government (Miscellaneous Provisions) Act 1976 from the requirement to display a licence plate and the driver from wearing a driver's badge.

Any proprietor of a licensed private hire vehicle wishing to apply for this exemption should be engaged solely in the provision of an executive service.

The applicant must satisfy the Head of Environment, Housing & Leisure that the specification of the vehicle and the overall level of service provision constitutes an executive hire service. This is initially done by way of submission of a business plan, inspection of the vehicle and the proprietor of the vehicle in question being interviewed by a Licensing Officer. Guidance notes are available from the Licensing Section.

Applications for an exemption can be made in writing, in person or by post, fax or e-mail.

If granted, an Exemption Notice will be issued to the proprietor. The Exemption Notice shall not be granted for a period of more than one year and shall expire upon the expiry of the private hire vehicle licence.

The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard conditions attached at **Appendix D** and any additional conditions. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice. The conditions are attached at **Appendix D** to this Policy.

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.

Any vehicle operating under this exemption may also request in writing to be exempt from the condition limiting the tint on the rear passenger windows (two rear passenger windows, back window and any rear side windows if present).

Any vehicle granted an exemption, and which has tinted windows, must 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). The driver must not act as the accompanying adult. Further, the Operator must, unless such a vehicle has been specifically

requested, inform a hirer that such a vehicle with tinted windows will be supplied.

## 17. **Tinted Windows**

The windows (excluding the windscreen which must have a minimum light transmission of 75% and 70% minimum light transmission for front side windows) of any vehicle shall not have been adapted so that less than the percentages detailed below of light is transmitted through it:

- 34% for all other windows

Licensing Officers are able to exercise their discretion as to the suitability of a vehicle where the light transmittance of the windows is below 34%. This discretion however does not apply to the front windscreen or the front side windows.

[In the case of vehicles where windows have been fitted as standard with a tint there will be no minimum light transmission for all windows to the rear of the B pillar.]

Q3 – Do you agree or disagree that the Policy should be amended to allow windows with no minimum tint for all windows to the rear of the B pillar provided it is fitted as standard to the vehicle? Please give reasons for your response.

If the following criteria can be met in which case there will also be no minimum light transmission:

- The vehicle is an executive hire vehicle operating under an Exemption Notice, and
- The vehicle will not be engaged at all in any contract or provision of vehicle for the carriage of minors or based around the carriage of unaccompanied children/young persons (under age 18 years). The driver must not act as the accompanying adult, and
- Approval has been given by the Head of Environment, Housing & Leisure.

The Operator must, unless such a vehicle has been specifically requested, inform a hirer that a vehicle with tinted windows as detailed above will be supplied.

## 18. **CCTV in vehicles**

The purpose of CCTV is to provide a safe environment for the benefit of the driver and passengers by:

- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- Assisting the Police and Licensing Officers in investigating incidents of crime and/or complaints
- Assisting insurance companies in investigating motor vehicle accidents.

Where a CCTV system is in place it is a requirement that the proprietor must

register their use of a CCTV system with the Office of the Information Commissioner in accordance with the requirements of the Data Protection Act 2018. (Further information is available at [www.ico.gov.uk](http://www.ico.gov.uk)).

Any vehicle fitted with CCTV must display a sign approved by the Licensing Authority advising passengers that a CCTV system is in operation in the vehicle.

Where CCTV is in place in a vehicle it must be in full working order when passengers are being carried. The CCTV system must be maintained to manufacturers' standards.

The CCTV footage must be available for viewing by a Police Officer or an Authorised Officer of the Authority on when a request to view the footage is made in compliance with the Data Protection Act 2018. Any failure to comply with such a request will be reported to the Licensing Section of the Authority for consideration of the appropriate action to be taken. Any reports of misuse of CCTV will be referred to the relevant authority, for example; the Surveillance Camera Commissioner and the Information Commissioner's Office as well as the Authority.

## 19. **Environmental Considerations**

This Policy is listed in the Authority's Transport Strategy for 2017-2032 as a Policy that supports the delivery of the Transport Strategy in the Borough. The North Tyneside Transport Strategy was approved by Cabinet in May 2017 and commits to managing the Borough's transport network effectively having regard to all forms of transport including that provided by hackney carriage and private hire vehicles. This Policy has therefore been developed having regard to the Authority's Transport Strategy. The Transport Strategy for 2017-32 can be found on the North Tyneside Council website.

As detailed in Chapter 1, one of the objectives of this Policy is the promotion of environmental sustainability. To meet this objective the Policy seeks to promote the uptake of zero and ultra- low emission vehicles and to permit licenses to be granted only for those vehicles that comply with particular age requirements within this Policy.

Emissions from hackney carriage and private hire vehicles can be immediately improved through encouraging the better maintenance of vehicles and by drivers switching off their vehicle's engine when stationary and so preventing the idling of engines, including in particular hackney carriages parked at ranks or licensed vehicles waiting for a fare. Non-idling technology is becoming more prevalent in newer vehicles and over time all licensed vehicles should be able to make use of this technology.

## 20. **Emission/Age standards**

As part of the need to promote environmental sustainability and reducing pollution caused by road vehicles, this Policy introduces common requirements for emissions from hackney carriages and private hire vehicles. The age standards

set out below aim to assist in meeting the need to improve air quality in the Borough and the wider region.

[The following age standards will be implemented over a three year period:

- (i) From 1 April 2020 no new vehicle licences will be granted for vehicles unless it is less than 4 years old
- (ii) From 1 April 2023 a vehicle licence will not be renewed unless the vehicle is less than 8 years old
- (iii) From 1 April 2025 a wheelchair accessible vehicle licence will not be renewed unless the vehicle is less than 8 years old.

All 'Full electric' and 'zero emission at source' vehicles will be exempt from the age standards set out above.

If any application is refused due to a vehicle failing to meet the age standard the licensee/applicant can appeal to Regulation and Review Committee against the decision to refuse to grant a licence or to the Magistrates' Court or Crown Court as appropriate.]

Insertion of age standards from 1 April 2020.

Q4. Do you:

- a) Agree or disagree that an age standard should be added to this Policy?
- b) Please give reasons for your reasons.
- c) If agree, do you agree or disagree with the age standards proposed in this Policy?
- d) If disagree, what alternative age standards would you suggest?

## 21. **Insurance write offs**

Car insurance assessors use various categories of car insurance write off to rank the seriousness of accident damage. Two categories (A & B) represent very serious damage, but the remaining two categories (S & N) are for 'economic write offs' where the damage is considered too expensive to fix but does not necessarily amount to damage that is considered to be dangerous. Vehicles that have been declared to be an insurance write off in category A & B will not be licensed. Vehicles that have been declared either category S or N write off may be licensed providing the applicant provides an appropriate Engineer's report, approved by the Authority, verifying the standard of repairs and that the vehicle is considered to be safe in all regards.

## 22. **Conditions**

It is the responsibility of hackney carriage proprietor licence holders and private hire vehicle licence holders to ensure that they have read and fully understood the conditions that form part of their licence and fully understand the requirements imposed on them by such conditions. Failure to adhere to the conditions could result in disciplinary action being taken against the licence holder. Any proprietor

of a licensed vehicle who claims not to be aware of the existence of a licence condition will be considered as not having taken sufficient care to ensure the safety and care of their passengers.

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### **3. Drivers**

#### **Contents**

1. Licences
2. Experience
3. Right to live and work
4. Driver Knowledge/Locality Test
5. DBS Check
6. DBS Process
7. Applicants who have spent time abroad
8. Relevance of Convictions and Cautions
9. Medical Assessment
10. Child Sexual Exploitation
11. Three Year Driving Licences
12. Application Procedure
13. New applications
14. Renewal applications
15. Incomplete applications
16. Grandfather rights
17. Conditions of Licence
18. Code of Good Conduct
19. Driver's Dress Code

#### **1. Licences**

The Authority issues the following driver licences:

- Hackney carriage driver
- Private hire driver

Licences are issued subject to proof of eligibility – driving licence, knowledge test, criminal records check, medical assessment and eligibility to live and work in the UK.

The statutory and practical criteria and qualifications for each licence are almost 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.

Decision making in relation to licensing of drivers is an onerous duty requiring the Authority to take decisions in the interests of the wider community and not in the interests of the licensee or applicant. The safety of the public is paramount.

The Authority is aware that in respect of an application for an initial grant of a licence, it is for the applicant to satisfy the Authority on the balance of probabilities that he/she is a fit and proper person to be granted a licence.

Once a person is licensed, they shall be presumed to remain a fit and proper person to be licensed, unless he/she is considered to no longer be a fit and

proper person as a result of a conviction, caution fixed penalty or community resolution, complaint or other non-conviction information that comes to the Authority's attention.

**2. Experience**

All applicants must have held a full UK or European Economic Area (EEA) driving licence for at least 12 months before the date of the application. A full list of EEA Countries is available from the Licensing Section of the Authority.

**3. Right to work**

Applicants for a licence will be required to prove that they have a right to live and work in the UK before being considered for a licence and no licence will be granted/ renewed until the applicant is able to prove this requirement. If leave to remain in the country is for a period of less than 3 years a shorter licence will be issued.

All new applicants and on the first renewal for existing drivers a Right to Live and Work in the UK check will be carried out.

**4. Driver Knowledge/ Test**

In order to determine the fitness of a person to hold a licence, all new applicants are required to sit and pass a test on their knowledge of [the local geography], driver conduct, licensing legislation, awareness of child sexual exploitation and the highway code.

[Applicants will be permitted to have 3 attempts at passing the knowledge test within a 3 month period. If an applicant fails to pass the test after 3 attempts they will be required to wait for a period of at least 6 months from the date of the last test taken by them before being permitted to sit the test again.]

Q5. Do you have any comment to make on the proposal that there be restrictions on the number of attempts within a three month period? Please give reasons for your response.
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No driver's licence will be issued without the applicant first gaining a knowledge test pass certificate. If a driver does not apply for the initial licence and 12 months elapses before re-applying you will be required to sit a further knowledge test.

The Authority views candidates who cheat, or attempt to cheat during the test to be acting dishonestly. Any candidate found cheating, therefore, will be disqualified and the test fee will be forfeited. In addition in such cases, the candidate's conduct will be taken into consideration when determining their application for a licence.

Q6. Do you believe the driver knowledge/locality test should: a) continue in its current format b) remove the locality element of the test for both hackney carriage and private
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hire driver applicants  
c) remove the locality element of the test for private hire driver applicants only  
Please give reasons for your response

5. **DBS Check**

Given the role of a hackney carriage or private hire driver the Authority has determined that an Enhanced Disclosure provided by the Disclosure & Barring Service (DBS) is required by all new applicants for a licence. Once licensed, drivers will be required to undergo a further enhanced criminal record check at each three yearly renewal of their licence. A DBS check on a driver is an important measure in assessing whether or not an applicant is suitable to hold a hackney carriage, private hire or dual hackney carriage/private driver's licence.

The Enhanced Disclosure provides details of all convictions, cautions, fixed penalties and community resolutions held on the Police National Computer. The Enhanced Check will include information held on the DBS's Children and Adult Barred Lists of those considered unsuitable or banned from working with children or vulnerable adults.

In addition, where appropriate the Disclosure Unit of the Police will share with the Authority other relevant information disclosed at the Chief Officer of Police's discretion.

These disclosures include details of spent and unspent convictions, cautions and intelligence by virtue of the Rehabilitation of Offenders Act 1974 (Exception) Order 1975. The Rehabilitation of Offenders Act 1974 does not apply to applicants for hackney carriage or private hire driving licences.

6. **DBS Process**

The Authority does not accept paper applications for Disclosures from the Disclosure & Barring Service (DBS). Applicants applying for a hackney carriage or private hire driver's licence must complete an on-line DBS form and this must be done before submitting the application for the licence to the Licensing Section of the Authority.

To complete an on-line DBS form applicants will need access to the internet. There are four Customer First Centres located in the Borough where computer facilities are offered. Additional guidance on completing the online application is available from the Licensing Section or on the Authority website at [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk)

DBS checks are not portable and only DBS checks applied for through North East Regional Employers Organisation (NEREO), the Authority's service provider, will be accepted. After completing the on-line application applicants will be given a submission reference number. Applicants will need to make a note of this reference number as the Licensing Section will require this at the time of submission of the application for the Licence.

A minimum of three forms of identity will be required in order to verify the identification of an applicant. The full list of approved documentation is available from the Licensing Section or on the Authority's website at [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk).

The Authority requires applicants and existing drivers to subscribe to the DBS Update Service. An additional fee payable to the DBS will be required in relation to this service. The Update Service will allow criminal record certificates to be kept up to date so that they can be taken from role to role.

Licensees will need to provide the Authority with their Disclosure Certificate when applying for a licence or renewal of a licence and complete and sign a mandate confirming that they consent to the Authority carrying out the online check.

The Update Service will then allow the Authority to carry out free, instant online checks of an individual's certificate to check it is up to date. The Authority will only have to seek a new criminal record check if the DBS advises that something has changed. Further information is available on the Disclosure and Barring Service website at [www.gov.uk/db](http://www.gov.uk/db)s

New addition – inclusion of mandatory requirement to sign up to the Disclosure and Barring Service Online Update Service.

Q7. Do you agree or disagree with the mandatory requirement to sign up to the Disclosure and Barring Service Online Update Service? Please give reasons for your response.

## **7. Applicants who have spent time abroad**

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.

Where an applicant has been continually absent from the United Kingdom and Channel Islands for 3 months or more an enhanced DBS disclosure in itself will be insufficient to satisfy the Authority that the applicant is a fit and proper person, as the DBS does not routinely provide criminal record information from non-UK countries. Such applicants should provide a Certificate of Good Conduct or equivalent document from each country where they have been resident/domiciled.

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 to any criminal convictions recorded against the individual.

The Head of Environment, Housing & Leisure may approach the relevant Embassy or appropriate body directly to verify documents provided. The applicant will be advised of any costs involved (e.g. in relation to translation) and these costs must be met by the applicant.

The Authority may require the applicant to submit additional information and references.

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

Asylum seekers or persons granted asylum/refugee status will not be required to produce a Certificate of Good Conduct from the country they are claiming asylum from. To gain this exemption the applicant must provide a Certificate of Registration or a letter issued by the Border and Immigration Agency confirming the above and must submit a written request to the Authority for the exemption to apply. A DBS for time spent in the UK will still be required.

The Head of Environment, Housing & Leisure may determine such applications or refer them to the Regulation & Review Committee.

#### **8. Relevance of Convictions, Fixed Penalties, Community Resolutions Cautions and Conduct**

In relation to the consideration of convictions, cautions, fixed penalties and community resolutions recorded against a person and concerns about their conduct please refer to Section A of Chapter 7 of this Policy – Guidance as to the Relevance of Convictions, Cautions, Fixed Penalties and Community Resolutions and Section B of Chapter 7 - Conduct.

In assessing whether the applicant is a fit and proper person to hold a licence, or if an existing driver continues to be a fit and proper person the Authority will consider each case on its own merits.

In some cases the Authority may require additional DBS checks at a cost to the licensee.

#### **9. Medical Assessment**

Upon an initial application for a driver's licence the applicant shall produce a completed Medical Certificate Form MC1. This must be completed by the applicants own G.P or a Medical Practitioner with access to the applicants full medical history. The applicant is responsible for paying the fee for the examination. If necessary the G.P. may return the completed form direct to the Licensing Section.

Group 2 Medical Standard of Fitness applies. Please refer to Chapter 7 for more details with regard to medical fitness.

Applicants attaining 45 years of age must provide evidence of their medical fitness to hold a licence every five years up until the age of 65 years, after which a medical is required every year.

Where a medical is due within the term of the licence, the Authority will contact the driver in writing to advise of this. Should the medical certificate not be provided within the relevant timescale, the drivers licence will be suspended until

such certificate is provided and in certain cases the suspension will be with immediate effect.

Holders of DVLA Group 2 Licences will not be required to provide a medical certificate provided their licences are valid and evidence is produced to confirm this. In other cases where a more in depth medical has been undertaken for a specific profession (e.g. pilot's licence) then this will be considered on a case by case basis by the Licensing Section.

#### 10. **Child Sexual Exploitation**

Child Sexual Exploitation is 'everybody's business' and the Authority is committed to working in partnership with and supporting local businesses and the community to raise awareness of this issue. Licensed drivers may see, hear or recognise situations or behaviour that may be of concern to them. As well as being in a position of trust drivers play an important role in helping to safeguard vulnerable people. It is important therefore that licensed drivers and applicants undergo awareness training to assist in the prevention of sexual exploitation and to know how to report it. By key agencies working together and sharing information sexual exploitation can be prevented, children and young people protected and perpetrators of sexual offences prosecuted.

It is a requirement that all new applicants for a hackney carriage/private hire driver's licence to undertake child sexual exploitation awareness training prior to being issued a licence.

All existing drivers are required to undertake a sexual exploitation awareness refresher training every three years, with regular updated information leaflets circulated to drivers when required. If training is not completed the driver will be referred to Regulation and Review Committee.

#### 11. **Three Year Driving Licences**

In the majority of cases the Authority will issue driver licences for up to three years. In certain cases a three year licence will not be appropriate but the Licensing Section will advise if this is the case.

#### 12. **Application Procedure**

#### 13. **New Applications**

The following documents are to be submitted in person or online as applicable for a **new** application:

- Fully completed application form
- Medical Certificate Form (MC1) completed by applicant's own GP or one who has had access to the applicant's full medical history and/or any relevant electronic medical records held or evidence provided that a DVLA Group 2 licence is held. A suitable alternative medical will be considered on a case by case basis.

- DBS Submission Reference Number together with appropriate identity documents or Evidence provided to confirm subscription to the DBS Update Service
- Knowledge Test pass certificate
- Driving Licence
- Fully completed mandate for DVLA licence check
- Evidence of a right to reside and work in the UK
- Evidence of completion of CSE awareness training
- Any additional information requested by the Licensing Section

Fees:

- Licence fee including DBS Check fee

Insertion to allow applications to be made on line
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The application will not be determined until the knowledge test has been taken and passed, a medical certificate and Enhanced Disclosure and where applicable a Certificate of Good Conduct and any additional information requested are received. Any incorrectly completed forms will be returned.

If the application is withdrawn or refused the fee will be refunded minus the proportion of the charge for the DBS and knowledge test fee and an administrative charge. Should the application be appealed the administrative charge will be higher.

Fees paid in relation to driver licences will be subject to a partial refund on the unexpired portion of the licence should the driver choose to surrender their licence. Refunds will be payable in relation to each full year remaining on the licence and an administration fee will be levied.

#### 14. **Renewals**

Applications to renew a licence must be submitted in person or on line as applicable prior to the expiry date of the current licence.

The following documents are to be submitted for a **renewal** application:

- Fully completed renewal form
- Medical Certificate Form (MC1) completed by applicant's own GP or one who has had access to the applicant's full medical history and/or any relevant electronic medical records held or evidence provided that a DVLA Group 2 licence is held. A suitable alternative medical will be considered on a case by case basis, if required
- DBS Submission Reference Number together with appropriate identity documents, as required
- Driving licence and/or fully completed DVLA mandate
- Evidence of a right to reside and work in the UK (where required)
- Evidence of completion of a refresher CSE awareness package (when

- required)
- Any additional information requested by the Licensing Section

Holders of existing driver's licences must apply to renew their licence in the month preceding the expiry date and the application must be submitted at least 10 working days prior to the expiry of the existing licence. Renewal applications submitted after the expiry date will not be accepted. Any late renewals will be classed as a New Application with Grandfather Rights.

Insertion to allow applications to be made on line and increase in time period to submit renewal application from 7 days to 10 working days

Fees:

- Licence fee including disclosure application fee if required

There is no legal requirement for the Authority to send out reminders for renewals for licences, but to aid drivers the Licensing Team will endeavour to do so. However, the responsibility rests with the driver to ensure documentation is provided within the appropriate timescales. If the required documents are not produced the application will not be determined.

If the application is refused the fee will be refunded minus the proportion of the charge for the DBS and an administrative charge. Should the application be appealed the administrative charge will be higher.

## 15. **Incomplete applications**

An application to renew a licence that has been submitted with the appropriate licence fee prior to the expiry of that licence, but is incomplete, will not be processed.

In such cases the Authority will issue a written request to the licensee for the additional information to be provided within 14 days of the expiry of the licence. During this time the licensee can continue to drive.

If the licensee fails to provide the information within this time period the application will be refused, to which the licensee will have a right of appeal. During this time the licensee can also continue to drive. If no appeal is received within 21 days then the driver must cease driving.

Renewal applications will be processed and a driver's licence issued pending any required enhanced DBS check unless the Authority has reasonable grounds for concern in which case the renewal will not be granted until or unless these concerns have been resolved.

Any licence that is issued pending the result of a DBS check will be on a "without prejudice basis" meaning such licences are issued without prejudice to any subsequent decision that the Authority may make when all of the relevant information from the DBS check is to hand.

If no evidence is provided of an enhanced DBS check having been submitted and sufficient accompanying documents to proceed with the renewal application, the application will not be accepted and no “without prejudice” licence issued.

If convictions, cautions etc. or charges are disclosed in the DBS check, the Head of Environment, Housing & Leisure will make a decision as to their relevance. The Authority may require further information from the Police, Crown Prosecution Service or other agencies prior to making a decision. If the information received is deemed relevant according to this Policy the application for renewal of a licence may be refused. Appeals against a refusal must be made in writing to the Regulation and Review Committee and/or Crown Court or Magistrates Court and be received within 21 days of receipt of the decision.

If details of any convictions, cautions etc. are received through the DBS check process and these were not disclosed by the applicant on the signed declaration form stating that there are no new convictions, cautions, fixed penalties or community resolutions then this will be treated seriously and the appropriate action taken in accordance with the Authority’s Enforcement Policy.

The Head of Environment, Housing & Leisure may refer a decision to renew a driver’s licence to the Regulation and Review Committee.

If a renewal of a licence is refused the decision and reasons for the decision will be notified in writing to the applicant or licensee within 5 working days of the decision.

Where a licence is issued, drivers will be issued with two identity badges detailing their name, licence number, expiry date of the licence and a photograph of the licensee. One badge must be worn at all times when the driver is working. Drivers are required to display the other badge in the vehicle where it is clearly visible to passengers.

Lost or damaged badges must be notified to the licensing Section by the next working day. A fee will be charged for each replacement badge.

#### 16. **Grandfather Rights**

The Authority will take account of the previous DBS check and medical history held of any driver who has not renewed their driver’s licence but re-applies within 6 months of the expiry date. If a knowledge test has been passed then a period of 12 months will apply in relation to this.

#### 17. **Conditions of Licence/Byelaws**

The conditions set out at **Appendix E** are considered reasonably necessary and as such may be legally imposed in respect of private hire drivers.

The Authority is not permitted to attach conditions to a hackney carriage driver’s licence. The Authority has adopted Byelaws which regulate hackney carriage

drivers. It is, however, empowered to attach conditions to a private hire driver's licence as are considered necessary.

**It is the responsibility of a private hire driver on the grant of a driver's licence to ensure that they have read the conditions attached to the licence and to fully understand the requirements imposed on them by such conditions. Failure to adhere to the conditions could result in disciplinary action being taken against the driver.**

**No private hire driver should be operating as a licensed driver without being aware of the conditions attached to their licence and all drivers will be expected to have read the conditions on receipt of their licence.**

**It is the responsibility of a hackney carriage driver on the grant of a driver's licence to ensure that they have read the Byelaws adopted by the Authority which regulate their driver's licence. Please see Appendix I for Byelaws. Failure to adhere to the Byelaws could result in disciplinary action being taken against the driver.**

**No hackney carriage driver should be operating as a licensed driver without being aware of the Byelaws adopted by the Authority in relation to hackney carriage drivers and all drivers will be expected to have read the Byelaws on receipt of their licence.**

Insertion of need for drivers to be aware of conditions and Byelaws.
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18. **Code of Good Conduct**

The Authority has introduced a Code of Good Conduct for all drivers that the Authority encourages drivers to operate in accordance with. This serves to promote the objectives set out in this Policy in respect of hackney carriage and private hire licensing. This Code of Good Conduct will be taken into consideration when determining disciplinary matters.

The Code of Conduct is attached at **Appendix F** to this policy.

19. **Driver's Dress Code**

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 standard of the licensed trade, drivers should operate at all times in a professional manner and conform to a minimum standard of dress. A Dress Code for licensed drivers is therefore in place and attached at **Appendix G** to this Policy. The Authority will not impose such standards by way of conditions to any licence. It is expected, however, that such standards will be maintained at all times.



## **4. Private Hire Operators**

### **Contents**

1. Requirements and obligations
2. Criminal Record Checks
3. Conditions
4. Other obligations
5. Application Procedure
6. Licence Duration
7. Address from which an operator may operate
8. Record Keeping
9. Change of Address
10. Convictions/Cautions

### **1. Requirements and obligations**

Any person who operates one or more private hire vehicles must apply to the Authority for a private hire operator's licence.

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.

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.

A private hire operator must ensure that every private hire vehicle despatched by him/her is licensed and driven by a person who holds a private hire driver's licence. All three licences (operator, vehicle and driver) must be issued by the Authority.

It is a criminal offence to operate a private hire vehicle without an operator's licence.

Operators and prospective 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.

Applications for an operator's licence must be made on the prescribed form, and the appropriate fee paid. The Authority will then decide whether the applicant is a fit and proper person to hold an operator's licence. It is accepted that an operator does not have the same level of direct contact with the public as a licensed driver (unless s/he holds a hackney carriage or private hire driver's licence). However, it is acknowledged that the operator will be in possession of information about a person's whereabouts and movements and will deal with the public either face to face, over the telephone or by other means and therefore there is a need for them to be fit and proper persons to hold an operator's licence.

When determining the fitness and propriety of operators, Officers and Members will consider the following test:

“Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”

If the answer to this question is an unqualified yes, then the test is satisfied. If Officers or Members have doubts then further consideration will be given as to whether the individual is a fit and proper person to hold an operator's licence.

Insertion of fitness test for operators.
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The Licensing Officer may also require additional information including a business plan.

## 2. **Criminal Record Checks**

Private hire operator's licences will only be granted to persons that the Authority is satisfied are fit and proper. This will be ascertained by way of a Basic Disclosure of any criminal convictions from the Disclosure and Barring Service, information requested on the application form or if deemed necessary during interview with the Licensing Officer.

Before an application for a private hire operator's licence will be considered the applicant (whether this be an individual or the Director of a limited company) must provide a current (less than 1 month old) Basic Disclosure of criminal convictions from the Disclosure and Barring Service. If the applicant is currently licensed as a driver with this Authority they will be exempt from this requirement as they will already have had a higher level of criminal record check.

Where a private hire operator's licence is in force in the name of a limited company and a new director(s) is proposed to be appointed to that limited company then each proposed director will be required to provide a Basic Disclosure of convictions from the Disclosure and Barring Service. If the applicant is currently licensed as a driver with this Authority they will be exempt from this requirement.

Any concerns highlighted during this process will be carefully considered and may be referred to the Regulation and Review Committee for determination.

## 3. **Conditions**

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

**On the grant of an operator's licence the operator must read and understand the conditions attached to the licence. Failure to adhere to the**

**conditions of the licence could result in disciplinary action being taken against the operator.**

**No operator should be operating as such without being aware of the conditions attached to their licence and all operators will be expected to have read the conditions on receipt of their licence.**

Insertion of need for operators to be aware of conditions.
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**Appendix H** sets out the model conditions to be attached to an operator's licence which cover the standards of service expected.

#### 4. **Other obligations**

Applicants are advised to ensure that the appropriate public liability insurance has been taken out for premises and that appropriate planning permission is in place.

Applicants for operator licences (new or renewal) will be required to prove that they have a right to work in the UK before being considered for a licence. No licence will be granted until the applicant is able to prove that they have a right to work in the UK. If leave to remain in the country is less than 5 years a shorter licence will be issued.

All new applicants and on the first renewal for existing drivers a Right to Live and Work in the UK check will be carried out.

#### 5. **Application Procedure**

The following documents are to be submitted in person or by post, online or e-mail for a new or renewal application:

- Application form
- Basic Disclosure of criminal convictions certificate (if not currently licensed as a driver) of the applicant and his/her/its staff
- Evidence of a right to reside and work in the UK (where required)
- Business Plan
- Policy on employing ex-offenders who are responsible for booking or despatching vehicles
- Any additional information requested by the Licensing Section
- A register of their staff who take bookings or despatch vehicles and operators
- Written confirmation that the Applicant has had sight of a basic DBS check of all the staff listed in the register.

Fees:

- Licence fee

Insertion to allow applications to be made online where applicable.
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Officers may require a site visit to the premises prior to the determination of the application for an operator's licence.

**6. Licence Duration**

Operator's licences will have a duration of up to five years. Fees paid in relation to operator licences will be subject to a partial refund on the unexpired portion of the licence should the operator choose to surrender their licence.

Refunds will be payable in relation to each full year remaining on the licence and an administration fee will be levied.

**7. Address from which an operator may operate**

Upon grant of an operator's licence the Authority will specify the address or addresses from which the operator may operate. The premises must be in North Tyneside.

If an operator wishes to change the premises from which they operate they should seek approval from the Authority prior to any change.

**8. Record Keeping**

Operators are required to keep records of each proprietor, vehicle and driver, booking records, including the name of the passenger, the destination, the name of the driver, the number of the vehicle and any fare agreed at the time of booking. **Appendix H** refers.

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 Authority.

**9. Change of Home Address**

The operator must advise the Licensing Section of the Authority in writing of any change of his home address within 7 days of such a change taking place.

**10. Convictions, Cautions, Fixed Penalties and Community Resolutions**

The operator shall disclose to the Authority within 7 days in writing of any conviction, caution, fixed penalty or community resolution received in relation to themselves or in the case of a limited company, against the company secretary or any of its directors.

## **5. Fares**

### **Contents**

1. General
2. Fare Tariff Formula
3. Table of Fares
4. Receipts
5. Overcharging

#### **1. General**

Licensing authorities have the power to set hackney carriage fares for journeys within the prescribed area.

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

The Authority may review the fare scales 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.

The Authority is not able to set fares for private hire vehicles. It is a matter for negotiation between the hirer and operator.

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. The meter must be used for all journeys. Failure to comply is an offence.

When a journey ends outside of the Authority's district 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. The meter must be used during all journeys. Failure to comply is an offence.

#### **2. Fare Tariff Formula**

The Authority prescribes the maximum fares that can be charged by a hackney carriage. The table of fares is not attached to this Policy as it is reviewed annually or more frequently depending on emerging circumstances e.g. the economic climate. A current table of fares is available from the Licensing Section or on the Authority website at [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk).

A formula is used to set maximum fares and charges. A full explanation of the formula is available from the Licensing Office.

A Notice of any variation to the maximum fare will be advertised in the Newcastle Evening Chronicle or similar newspaper with a date set of 14 days from

publication for making objections to the variation of fares.

If no objections are received the fare variation will have immediate effect at the end of the date stated for lodging objections. If any objections are received these will be referred to the Head of Environment, Housing & Leisure.

3. **Table of Fares**

Tables of fares will be provided to each hackney carriage licensee, which must be displayed in the vehicle so that they are easily visible to all hirers. Replacement fare tables are available for an additional fee.

4. **Receipts**

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

5. **Overcharging**

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. Wheelchair users cannot be charged extra for transportation.

## **6. Fees**

### **Contents**

1. Fee Structure
2. Variations to fee structure
3. Payments
4. Payment Refunds

### **1. Fee Structure**

The Local Government (Miscellaneous Provisions) Act 1976 permits local authorities to set fees for hackney carriage and private hire vehicles, drivers and operator licences. The legislation permits the local authority to recover the cost of providing the licensing scheme and such fees must be reasonable.

Section 53 (2) of the 1976 Act controls the levying of fees in respect of driver's licences for both hackney carriages and private hire vehicles. Section 70 of the 1976 controls the levying of fees for hackney carriage proprietor's licences, private hire vehicle licences and private hire operator's licences.

The current scale of fees and charges are available from the Licensing Office and via the Authority website at [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk).

### **2. Variations to fee structure**

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

A Notice of any variation to the maximum fees will be advertised in the Newcastle Evening Chronicle newspaper or similar newspaper with a date set 28 days from publication for making objections to the variation of fees.

If no objections are received the fee variation will have immediate effect at the end of the 28 day period specified for objections. If any objections are received the matter will be referred to Regulation and Review Committee for consideration.

### **3. Payments**

Payments can be made in the form of cash in person, cheques by post made payable to the Authority or by debit or credit card. Under no circumstances must cash accompany postal applications.

### **4. Payment Refunds**

Fees paid in relation to hackney carriage and private hire vehicle licences are subject to a partial refund on the unexpired portion of the licence, minus any test fee(s), should the proprietor choose to surrender their licence during the period of the licence. Refunds are payable for each full quarter left and an administration fee will be levied.

Fees paid in relation to hackney carriage and private hire driver licences are subject to a partial refund on the unexpired portion of the licence should the driver surrender their licence during the period of the licence. Refunds are payable for each full year left and an administration fee will be levied.

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## 7. **Convictions, Cautions, Conduct, Fixed Penalties, Community Resolutions & Medical Fitness**

### **Contents:**

1. Hackney Carriage & Private Hire Drivers
2. Rehabilitation of Offenders Act 1974

### **Section A – Guidance as to the Relevance of Convictions, Cautions, Fixed Penalties and Community Resolutions**

3. General Policy
4. Formal Cautions, Fixed Penalties and Community Resolutions and Other Matters
5. Barred Lists
6. Outstanding charges or summonses/Non-conviction information
7. Offences
8. Offences of Dishonesty
9. Crimes Resulting in Death
10. Offences of Violence
11. Discrimination
12. Possession of a Weapon
13. Drugs Offences
14. Possession of Drugs
15. Sexual & Indecency Offences
16. Motoring Offences
17. Minor Traffic Offences
18. Major Traffic Offences
19. Disqualification
20. Vehicle Use Offences
21. Licensing offences

### **22. Section B – Conduct**

### **23. Section C – Medical Fitness**

24. Production of medical certificate
25. Group 2 Standard
26. Age
27. Monitoring of medical condition
28. Refusal, Suspension and Revocation on grounds of medical fitness

## **1. Hackney Carriage & Private Hire Drivers**

When an application is made for a private hire or hackney carriage driver licence the Authority must be satisfied that the applicant is a **fit and proper** person before issuing the licence. By law the Authority shall not licence drivers unless it is satisfied of this (section 51 & section 59 Local Government (Miscellaneous Provisions) Act 1976).

The legislation is worded in such a way so as to put the onus on the applicant to produce evidence to satisfy the Authority that they are a fit and proper person, rather than for the Authority to prove that they are not.

The Authority may fail to be satisfied on the balance of probability that an applicant is a fit and proper person to hold a drivers licence for any good reason. 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.

In addition, the Authority may:

- suspend; or
- revoke; or
- refuse to renew a licence

a hackney carriage or private hire driver licence:

- if the licensee has been convicted of an offence involving dishonesty, indecency or violence; or
- if the licensee has been convicted of a private hire/hackney carriage licensing offence;
- if, the licensee (in some cases), since the grant of the licence the licensee has been convicted of an immigration offence or required to pay an immigration penalty; or
- for any other reasonable cause.

(section 61 LG(MP) Act 1976)

Insertion of Authority's ability to suspend, revoke or refuse to renew a driver licence if the driver convicted of an immigration offence or failure to pay an immigration penalty

Any other reasonable cause will include convictions for other types of offence, a lack of medical fitness or conduct.

If it appears to be in the interests of public safety to do so, then a revocation or suspension of a licence will have immediate effect and the driver will be given notice of that decision and an explanation. The effect of this decision will mean that a driver cannot continue to drive licensed vehicles. The revocation or suspension will continue to apply should an appeal be made against the decision. In certain cases a licence may be revoked or suspended without taking immediate effect.

## 2. **Rehabilitation of Offenders Act 1974**

Hackney Carriage and Private Hire drivers are excluded from the provisions of the Rehabilitation of Offenders Act 1974. **All** convictions, including spent convictions must be declared on first application or any renewal and will be considered as part of the application process.

### 3. **Section A – Guidance as to the Relevance of Convictions, Cautions, Fixed Penalties and Community Resolutions**

#### **General Policy**

The overriding consideration of the licensing regime is the safety of the public. The Authority has a duty to ensure that, as far as possible, those licensed to drive the public in hackney carriage or private hire vehicles are suitable persons to do so, that they are safe drivers with a good driving record, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their position to abuse or assault customers.

The aim of this guidance is not to punish the applicant/licensee following a conviction or other form of disposal but to ensure that public safety is not compromised and to protect the public from those who have demonstrated a propensity towards wrongdoing.

This guidance is intended to assist Licensing Officers and the Regulation and Review Committee (the Committee) in decision making and to ensure that a consistent approach is maintained. However, each case has to be decided upon its own merits and officers and the Committee will not stick rigidly to this guidance if there are clear and compelling reasons to depart from it. 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.

It may be appropriate to depart from the general policy in this guidance in some cases, if there are compelling reasons to do so, for example, in situations where an offence is isolated and there are mitigating circumstances. 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 or trend of repeated offending or inappropriate behaviour which will be taken into account. Where there has been a conviction for a sexual offence or a crime which resulted in the death of another person an application for a licence will be refused. Where an applicant has served a custodial sentence the Authority 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.

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation of another individual irrespective of whether the victims are adults or children they will not be, or continue to be, licensed. "Exploitation" is taken to include slavery, child sexual abuse including grooming, psychological abuse, emotional abuse and financial abuse

Clarification concerning convictions of abuse and exploitation
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This guidance is also intended to assist applicants, licensees and those representing them, by clearly setting out the expectations that the Authority has in relation to applicants/licenses who have received convictions. This should also

minimise the time spent and associated costs incurred by both the Authority and applicants/licensees.

This guidance will be taken into account and 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.

In considering evidence of an applicant's character and fitness to hold a drivers licence, where previous convictions or other information relating to criminal matters is disclosed, the Authority will consider the nature of the offence or allegation made, when it was committed, the date of conviction, the applicants 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 Authority cannot review the merits of the conviction [Nottingham City Council v Mohammed Farooq (1998)] but it may look at the circumstances surrounding the conviction.

This guidance is not an attempt to define who is a fit and proper person.

This guidance does not deal with every type of offence. However, offences described in this guidance and similar offences, though differently described or worded in any statutory provision, modification or re-enactment, will be taken into account in accordance with this guidance. In all cases the safety of the public will be the primary concern of the Authority.

#### **4. Formal Cautions, Fixed Penalties and Community Resolutions and Other Matters**

For the avoidance of doubt, for the purposes of this guidance, cautions, fixed penalties and community resolutions shall be treated as though they were convictions and in this Policy/guidance any reference to "conviction" includes formal cautions, fixed penalties community resolutions and matters that amount to criminal behaviour but which have not resulted in a conviction.

Clarification on matters to be considered when assessing the fitness of a person to hold a licence.

##### **Cautions**

The Authority requires applicants and licensees to reveal promptly any cautions they may have received because a caution can only be imposed following an admission of guilt which is equivalent to a guilty plea on prosecution and because before a caution can be administered the police or prosecuting authority must have considered that there was sufficient evidence to proceed with a prosecution had the offer of a caution been refused.

##### **Fixed Penalties**

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. Fixed penalties must be declared to the Authority promptly in the same way as convictions are declared and may be taken into account by the Authority. This is because payment of a fixed penalty indicates acceptance of guilt.

### **Community Resolutions**

A community resolution imposed for crime or anti-social behaviour must be promptly disclosed to the Authority. This is because a community resolution can only be imposed where the offender admits guilt.

### **Other Matters**

It should be recognised that matters that have not resulted in a criminal conviction (whether as the result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the applicant/licensee has been bailed or released under investigation) can and will be taken into consideration by the Authority.

In addition, complaints that do not have police or other investigating authority involvement will be considered by the Authority when assessing the fitness of a person to hold a licence.

**Addition of Community Resolutions and clarification of all disposals that need to be referred to the Authority.**

## **5. Barred Lists**

Part of the role of the DBS is to help prevent unsuitable people from working with vulnerable groups including children, barring them from doing so where necessary. As part of the enhanced DBS check the Authority is provided with information about whether an applicant is barred from working with children or adults. In most cases, someone on a barred list would not be legally prevented from being a taxi or PHV driver, so the Authority can use its discretion in making decisions. However, in the interests of public safety, unless there are exceptional circumstances, an application will normally be refused where the applicant appears on either barred list.

## **6. Outstanding charges or summonses/Non-conviction information**

Where an applicant/licensee is the subject of an outstanding charge or summons their application will not usually be determined until the conclusion of proceedings or the charge(s) has/have been withdrawn.

If an applicant/licensee has been arrested or charged, but not convicted, for a serious offence which suggests they could be a danger to the public, consideration will be given to refusing the application or if currently licensed to further action being taken having regard to this Policy and guidelines.

7. **Offences**

This guidance does not deal with every type of offence.

However, offences described in this guidance and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines.

8. **Offences of Dishonesty**

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the appropriate fare and in other ways. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may include especially vulnerable people. For these reasons a serious view is taken of any convictions involving dishonesty.

Applicants/Licensees with a conviction for an offence involving dishonesty will not be granted a licence until at least 3 years have elapsed since the completion of any sentence.

9. **Crimes Resulting in Death**

Applicants/Licensees convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person will not be licensed.

10. **Offences of Violence**

Applicants/Licensees with a conviction, for an offence of violence, or connected with any offence of violence, will not be granted a licence until between 3-5 years have elapsed since the completion of any sentence imposed.

11. **Discrimination**

Where an applicant/licensee has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 3 years have elapsed since the completion of any sentence imposed.

12. **Possession of a Weapon**

Where an applicant/licensee has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

Addition of time free from conviction for offences of discrimination and possession of a weapon. Convictions following some offences will mean that a licence is not granted.
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13. **Drugs Offences**

**Supply of Drugs/Cultivation of Drugs**

Applicants/Licensees with a conviction for an offence of supplying or possession of drugs with intent to supply or connected with possession with intent to supply, will be refused a licence until at least 5 years have elapsed since the completion of any sentence imposed.

14. **Possession of Drugs**

Applicants/Licensees with a conviction for an offence of possession of drugs or related to the possession of drugs will be refused a licence Until at least 3 years have elapsed since the completion of the sentence imposed. In these circumstances the applicant/licensee will have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs

15. **Sexual and Indecency Offences**

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers. Therefore, applicants/licensees with a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

Clarification of consideration of sexual and indecency offences. Convictions following some offences will mean that a licence is not granted.
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16. **Motoring Offences**

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying members of the public. Any motoring conviction demonstrates a lack of professionalism and will be considered in that light. The single occurrence of a minor traffic offence will not generally prohibit the grant of a licence or action being taken against a licensee. However, any subsequent motoring convictions may be evidence of the fact that the applicant/licensee does not take their responsibilities as a professional driver seriously and is therefore not, or no longer remains, a fit a proper person to hold a licence.

17. **Minor Traffic Offences**

Where an applicant/licensee has between 3-5 penalty points either at the time of application or during the licence period this will be considered as a "Minor Traffic offence". Convictions for minor traffic offences should not prevent a person from obtaining a licence. In the majority of cases the applicant/licensee will receive a warning or advice regarding future conduct.

Bearing in mind the number of miles they drive, it is expected that licensed drivers are more likely than the average motorist to get convictions for minor traffic offences. Where an applicant/licensee has accrued 6 or more penalty points for two or more minor traffic offences in the majority of cases a formal written warning

will be issued.

## 18. **Major Traffic Offences**

Road Traffic Offences which carry mandatory disqualification from driving will always be considered as “Major Traffic offences”. Where an applicant / licensee has 6 or more penalty points for a single offence or where the court has disqualified the driver for a single offence this will be considered as a Major Traffic offence. In the majority of cases an applicant will be refused until a period of 2 years has lapsed since the date of the last conviction or the restoration of the DVLA licence. Existing drivers will generally be referred to the Regulation and Review Committee.

Where an applicant/licensee has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence or driving ban imposed. Following a conviction for driving under the influence of drugs, an applicant will have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Where an applicant/licensee has a conviction for using a hand-held mobile telephone or other hand-held device, a licence will not be granted until at least 3 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### Expansion of driving offences

Q8. Do you agree or disagree with the proposal that the time periods during which a licence will not be granted is expanded for:

- a) drink driving and drug convictions
- b) using a hand-held mobile telephone or device?

Please give reasons for your response.

## 19. **Disqualification**

In totting-up cases where disqualification is considered by the Court, even if the court does not disqualify a driver (e.g. because of exceptional circumstances), the Authority is likely to refuse a hackney carriage or private hire drivers licence and an applicant will normally be expected to show a period of 12 - 18 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-qualification. Existing drivers will generally be referred to the Regulation and Review Committee. This is because repeat motoring convictions would suggest that the driver does not take his/her professional responsibilities as a licensed driver seriously and may as a result no longer be considered a fit and proper person to hold a licence.

In totting-up cases where disqualification is imposed by the court, the Authority is likely to refuse a hackney carriage or private hire drivers licence until a period of 12 – 18 months has lapsed since the restoration of the DVLA licence. Existing drivers will be referred to the Regulation and Review Committee.



20. **Vehicle Use Offences**

Where an applicant/licensee has a conviction for any offence which involved the use of a vehicle (including both hackney carriage and private hire vehicles) a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

Addition of offences which involve the use of a vehicle
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21. **Licensing Offences**

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (the Acts) and hackney carriage Byelaws is to ensure the protection of the public. The main private hire and hackney carriage offences are available from the Licensing Office or on the Authority's website [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk).

A serious view is taken of convictions for offences under the Acts and Byelaws when deciding whether an applicant/licensee is considered to be, or remain, a fit and proper person to hold a licence.

Where an applicant/licensee has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 2 years have elapsed since the completion of any sentence imposed.

Where an applicant/licensee has a conviction for any offence which involves the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 2 years have elapsed since the completion of any sentence imposed.

Q9. Do you agree or disagree with the time periods contained within chapter 7? Please give reasons for your response.
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22. **Section B – Conduct**

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 or licensee's demeanour, appearance and behaviour may be taken into account in determining fitness and propriety as well as any complaints received about a current licensee.

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

The courts have found that the main purpose of the licensing regime is to prevent licences being given to, or used by, those who are not suitable to hold a licence,

taking into account their 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]).

When determining the fitness and propriety of drivers 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.

If the answer to this question is an unqualified “yes”, then the test is probably satisfied. If the Officers or members have doubts then further consideration will be given as to whether the individual is a fit and proper person.

Matters that have not resulted in a criminal conviction as explained in Section A of this guidance can and will be taken into account by the Authority when determining the fitness of a person to hold, or to continue to hold, a licence.

**23. Section C – Medical Fitness**

**24. Production of medical certificate**

Under section 57 of the Local Government (Miscellaneous Provisions) Act 1976 the Authority 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 Authority requires a medical certificate upon an initial application for a licence.

In addition or in place of such a certificate the Authority may require an applicant to submit to examination by a registered medical practitioner selected by the Authority as to his/her fitness to be a driver of a hackney carriage or private hire vehicle.

The medical practitioner must confirm that:

1. they have examined the applicant
2. the applicant is registered with the practice and/or
3. they have had full access to the applicant's medical records
4. the medical examination was carried out to DVLA Group 2 standard
5. s/he considers the applicant to be fit to act as the driver of a hackney carriage or private hire vehicle.

If the medical practitioner has not had access to the applicant's full medical records the Authority may require more frequent medical testing and/or select a practitioner to undertake a full medical examination of the applicant. All expenses are payable by the applicant.

**25. Group 2 Standard**

In line with DVLA recommendations, the Authority has adopted DVLA Group 2

driver standard for medical fitness of hackney carriage and private hire drivers. This reflects the higher risk caused by the length of time the driver may spend at the wheel in the course of his/her occupation and the responsibility they have for the safety of their passengers and the public.

26. **Age**

The Authority's policy is that a medical certificate is required upon an initial application for a licence. It remains valid until a driver reaches the age of **45 years** when a further medical certificate is required. A medical certificate is then required every **5 years until the age of 65** after which a certificate is required on a yearly basis.

27. **Monitoring of medical condition**

In addition, where a driver suffers from a medical condition that requires monitoring but would not prevent him/her from holding a licence the Authority may, as an additional condition of their licence, require written confirmation from his/her GP or consultant on each annual renewal that s/he remains fit to carry out the duties of a driver. Any condition attached to a driver's licence will be regularly reviewed.

It is a requirement that a driver notifies the Authority immediately of any medical condition which could affect their ability to carry out the duties of a licensed driver.

28. **Refusal, Suspension and Revocation on grounds of medical fitness**

If the Authority is not satisfied on the balance of probabilities as to the medical fitness of an applicant a hackney carriage or private hire drivers licence will not be granted (section 51 & section 59 LG (MP) Act 1976).

If the Authority is not satisfied as to the medical fitness of a hackney carriage or private hire driver there will be reasonable cause to suspend, revoke or refuse to renew the licence under section 61 Local Government (Miscellaneous Provisions) Act 1976.

Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 allows the Authority to revoke or suspend an existing driver's licence **with immediate effect** when that driver no longer meets the Group 2 medical standard and in the opinion of the Authority's it is in the interests of public safety to take such a course of action. The Authority will only lift a suspension of a licence on receipt of written confirmation from a GP or consultant that the driver meets the Group 2 medical standard.

## 8. Enforcement and Discipline

### Contents

1. Enforcement/Disciplinary Options
2. Informal Action
3. Vehicle Defect Rectification Notice
4. Suspension of Vehicle Licence
5. Section 68 Suspension of Vehicle Licences
6. Suspend, revoke or refuse to renew
7. Section 60 Vehicle Licences
8. Section 61 Driver Licences
9. Section 62 Operator Licences
10. Stay of action pending outcome of Court Appeal
11. Requests for Insurance
12. Cautions
13. Prosecution

Please note: This chapter provides an overview of enforcement and disciplinary action. It is not intended to be an exhaustive list. **It does not constitute legal advice.**

### 1. Enforcement & Discipline - The Authority's Officers and Regulation & Review Committee

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 instill confidence in the travelling public who wish to use the service.

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

Officers of the Authority (usually Licensing Officers) can be authorised by the Authority to undertake enforcement work. The Head of Environment, Housing & Leisure may authorise such Officers. In undertaking such work the Officers will abide by the Authority's Enforcement Policy. Enforcement work includes investigating complaints made about drivers, vehicles and operators in addition to matters observed by Officers e.g. vehicle defects. The Authority can consider circumstances of concern even though a conviction has not been obtained or the conduct does not amount to a criminal offence.

The Head of Environment, Housing & Leisure may take appropriate disciplinary action against licensees in accordance with this policy. The Authority's Regulation & Review Committee may determine the appropriate disciplinary action (if any) to take against licensees referred to it by the Head of Environment, Housing & Leisure.

## 2. **Enforcement/Disciplinary Options**

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

- take no action
- take informal action
- use statutory and other notices/requests
- suspend a licence (with or without immediate effect)
- revoke a licence (with or without immediate effect)
- refuse to renew a licence
- use formal cautions
- prosecute
- obtain an injunction

The Head of Environment, Housing & Leisure may refuse to grant or renew licences and may revoke or suspend licences, with or without immediate effect.

## 3. **Informal Action**

Informal action to secure compliance with the legislation and policy includes offering advice, verbal and written warnings and requests for action.

Informal action may be appropriate where:

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

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

Repeated incidents of licence infringements, complaints etc. are likely to lead to action being taken against the licensee by the Head of Environment, Housing & Leisure or a referral to the Regulation & Review Committee.

## 4. **Vehicle Defect Rectification Scheme (VDRS)**

In situations where non-compliance with the conditions of vehicle licence or contravention of the legislation or byelaws is noted Officers may issue a vehicle defect rectification notice to the proprietor. Such notices are appropriate where the immediate suspension of the vehicle licence is not required. The notice will require the proprietor to remedy the defect and present the vehicle for inspection by Officers within 5 working days at the Licensing Office or a mutually agreed location. If a proprietor is aggrieved at the issue of a VDRS notice then they may request a review by Officers.

If the defect has been remedied then usually no further action will be taken. If the

defect is not remedied or the vehicle is not presented for inspection the vehicle licence may be suspended (section 60 (LG(MP) Act 1976) and/or the proprietor may be prosecuted (section 50 & section 73 LG(MP) Act 1976). A proprietor may appeal against a section 60 vehicle suspension during which time the vehicle can continue to be used.

## 5. **Section 68 Notices – Suspension of Vehicle Licence**

An Officer authorised by the Authority (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 Authority 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. The Officer may suspend the vehicle licence until such time as they are satisfied as to fitness/accuracy using section 68 of the Local Government (Miscellaneous Provisions) Act 1976. Suspension under section 68 takes immediate effect. There is no right of appeal against such a suspension. Therefore, this action will only be taken when an Officer has reasonable grounds to suspect that the condition of the vehicle/taximeter poses an immediate risk to passengers and/or other road users.

If the Officer is not satisfied of the fitness/accuracy of the vehicle within 2 months the vehicle licence is deemed to be revoked. Such matters do not need to be referred to Regulation and Review Committee by the Head of Environment, Housing & Leisure. The proprietor will be given written notice of the revocation within 14 days. The proprietor may appeal against the revocation of the licence to the Magistrates' Court or alternatively, or in addition to, the driver may first wish to appeal to the Authority's Regulation and Review Committee. Any appeal must be lodged within 21 days of notification of the decision.

**6. Suspend, Revoke or Refuse to Renew a Licence**

**7. Vehicle Licences – Section 60 LG(MP) Act 1976**

The Authority 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

Where the Authority suspends, revokes or refuses to renew a vehicle licence under section 60 LG(MP) Act 1976 it shall give the proprietor written notice of the grounds for the decision within fourteen days. The proprietor may appeal to a Magistrates' Court. Alternatively, or in addition, where the decision was made by the Head of Environment, Housing & Leisure the proprietor may first wish to appeal to the Authority's Regulation and Review Committee. Any appeal must be lodged within 21 days of notification of the decision

**8. Driver Licences - Section 61 LG(MP) Act 1976**

The Authority may suspend or revoke or refuse to renew a driver licence (hackney carriage, private hire or dual hackney carriage/private hire) 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;
- c. in some cases, if since the grant of the licence the licensee has been convicted of an immigration offence or required to pay an immigration penalty; or
- d. any other reasonable cause.

Where the Authority suspends, revokes or refuses to renew a driver licence under section 61 LG(MP) Act 1976 it shall give the driver written notice of the grounds for the decision within 14 days. The driver must on demand return to the Authority the driver's badges. The driver may appeal to a Magistrates Court. Alternatively, or in addition, where the decision was made by the Head of Environment, Housing & Leisure, the driver may first wish to appeal to the Authority's Regulation and Review Committee. Any appeal must be lodged within 21 days of notification of the decision.

**9. Operator Licences - Section 62 LG(MP) Act 1976**

The Authority may suspend or revoke or refuse to renew an operator's licence on any of the following grounds:

- a. any offence under or non-compliance with 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 licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
- d. in some cases, if since the grant of the licence the licensee has been convicted of an immigration offence or required to pay an immigration penalty; or
- e. any other reasonable cause.

Where the Authority suspends, revokes or refuses to renew an operator licence under section 62 LG (MP) Act 1976 it shall give the operator written notice of the grounds for the decision within 14 days. The operator may appeal to a Magistrates' Court. Alternatively, or in addition, where the decision was made by the Head of Environment, Housing & Leisure the operator may first wish to appeal to the Authority's Regulation and Review Committee. Any appeal must be lodged within 21 days of notification of the decision.

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

Section 77(2) LG(MP) Act 1976 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 a licence, the licence is deemed to remain in force until the appeal has been disposed of or withdrawn.

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. If the Magistrates' Court dismisses 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. If no appeal is lodged the driver must cease driving at the end of this period.

The Authority may decide that a suspension or revocation should take immediate effect where it considers it is in the interests of public safety to do so. In such cases the notice is issued to the driver and will include a statement that it is an immediate suspension/revocation and an explanation why. The suspension or revocation takes effect when the notice is received by the driver.

Where a licensee's court appeal is unsuccessful the court may order them to pay the Authority's costs.

None of the above provisions apply to the suspension of a vehicle licence under section 68 LG(MP) Act 1976. Where the suspension or revocation of a driver's licence under section 61 LG(MP) Act 1976 applies with immediate effect the driver cannot drive a hackney carriage or private hire vehicle pending any appeal made to the Regulation and Review Committee or to the Magistrates' Court.



## **11. Requests for Insurance**

In addition to spot checks, the Authority's Officers have a regular programme whereby requests to produce insurance are sent to a random selection of proprietors for the production of vehicle insurance. If insurance is not produced the vehicle licence may be suspended and the proprietor may be prosecuted (section 50 LG(MP) Act 1976).

In addition, anyone using an uninsured vehicle may be prosecuted (section 143 Road Traffic Act 1988 (or any successor legislation)).

## **12. Cautions**

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 Authority will have regard to all relevant guidance including the Authority's Enforcement Policy. It is necessary for the offence to be admitted prior to administering a caution.

A caution may be used to:

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

## **13. Prosecution**

In certain cases the Authority will prosecute. In all cases the evidential and public interest test contained within the Code for Crown Prosecutors must be satisfied and regard will be given to the Authority's Enforcement Policy.

In addition to prosecution, disciplinary action (e.g. warning, suspension, revocation, refusal to renew) may be taken against the licence.

The current standard fines for summary offences in the Magistrates Court are as follows:

- Level 1 - £200
- Level 2 - £500
- Level 3 - £1,000
- Level 4 - £2,500
- Level 5 - Unlimited

## **9. Regulation & Review Committee**

### **Contents**

1. Introduction
2. Decision making
3. Appeals
4. Disciplinary or Referred Matters
5. Procedure Note
6. Before the Hearing
7. Absence of Licensee/Applicant
8. At the Hearing
9. Appeal to the Court
10. Who is who?

### **1. Introduction**

The Authority's Regulation and Review Committee ("the Committee") exercises the Authority's functions in relation to the individual licensing of hackney carriage vehicles, hackney carriage drivers, private hire vehicles, private hire operators and private hire drivers under the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and other relevant legislation following referral to it by the Head of Environment, Housing & Leisure. All Members who have been appointed to this Committee receive on-going training from Authority Officers.

The Committee meets on a regular basis to discuss and determine specific taxi/private hire licensing issues. The schedule of meetings is available at [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk).

When considering any matter the Regulation & Review Committee will have regard to this Policy.

A Committee will meet to determine the following:

1. Appeals against decisions of the Head of Environment, Housing & Leisure in relation to the grant, refusal and suspension of all licences.
2. Disciplinary action to take (if any) against licensees referred to it by the Head of Environment, Housing & Leisure; and
3. Referred matters - any licensing application or other matter concerning individual licensees referred to it by the Head of Environment, Housing & Leisure.

### **2. Decision making**

Decision making in relation to licensing is an onerous responsibility and must be exercised in a way that protects the public. The Authority is aware that in respect of an application for an initial grant of a licence, it is for the applicant to satisfy the Authority on the balance of probabilities that he/she is a fit and proper person to be granted a licence and thus is someone who can be trusted to convey

passengers safely.

Once a person is licensed, they shall be presumed to remain a fit and proper person to be licensed, unless he/she is considered to be no longer a fit and proper person to hold a licence as a result of a conviction, fixed penalty caution, community resolution, complaint or other relevant non-conviction information.

When the Committee considers such matters concerning an applicant/licensee it is operating in an administrative capacity and the rules of natural justice must be observed, and the applicant/licensee has the right to a fair hearing. The licensee/applicant must be treated fairly and be seen to be treated fairly. The Committee will be impartial, unbiased and will act in good faith.

The Committee is required to make judgements based on the evidence submitted to it. It is not the Members' role to sit as advocates for either the Head of Environment, Housing & Leisure, the Police or the licensee/applicant but to weigh the merits of the case as presented to it - ensuring that the proper considerations are taken into account and irrelevant factors are disregarded, thereby reaching a balanced decision. The Committee must also state the reasons for its decisions.

Only Committee members who have heard the entire application, appeal or referred matter are able to take part in the decision making process.

Committee members should not participate in the hearing of a matter if there could be the appearance of bias or apparent bias. This can arise where a member's outside connections make it appear that there is a real danger of actual bias or apparent bias or a member has an interest under the Authority's Code of Conduct that they must declare. Where a registerable or non-registerable interest exists in relation to a matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice a Member's judgement of the public interest and either the matter will affect the financial position of a Member or a member of their family or employer or the matter concerns a request for a permission, licence, consent or registration of themselves or a family member or employer, the Member must withdraw from the meeting room.

The duty of a Member to consider whether or not to participate in a meeting is set out in Part 4 – Non-Participation in Authority Business - of the Code of Conduct for Members which forms part of the Authority's Constitution.

Update of information concerning Members Code of Conduct
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### **3. Appeals**

When considering an appeal against a decision of the Head of Environment, Housing & Leisure in relation to the grant, refusal or suspension of a licence the Committee may:

1. Allow the appeal in whole or in part

For example, if an appeal concerns the refusal of a licence, the Sub-Committee may determine that the licence should be granted but may stipulate additional conditions that must be attached to the licence and/or issue a strong warning as to the licensee's future conduct.

2. Dismiss the appeal

**4. Disciplinary or Referred Matters**

When considering a disciplinary or a referred matter e.g. an application for a licence, the Committee will have regard to the appropriate section of the policy.

Appropriate disciplinary action can take a number of forms, for example:-

1. Revocation of a licence
2. Refusal to renew a licence
3. Suspension of a licence
4. A warning letter expressing the Authority's dissatisfaction with the licensee's behaviour, whilst also advising that future conduct incompatible with that expected of a licensee could lead to a suspension, refusal to renew or revocation of their licence.

Additional conditions if considered reasonably necessary may be attached to a licence when it is renewed (NB. conditions cannot be attached to a hackney carriage driver's licence).

The action to be taken in any particular case will depend on the seriousness of the conduct/conviction/medical condition concerned.

**5. Regulation & Review Committee – Appeals/Disciplinary/Referred Matters - Procedure Note**

The Regulation and Review Committee hearing aims to ensure that the Environment, Housing & Leisure Service and the licensee/applicant have the fullest opportunity to present all of the information they wish to the Committee. The 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:-

**6. Before the Hearing**

Decisions of the Head of Environment, Housing & Leisure in relation to the grant, refusal and revocation or suspension of licences are provided in writing and will enclose an appeal form as appropriate. Appeal forms can also be obtained by contacting the Licensing Office or Democratic Services of the Authority. An appeal must be lodged within 21 days of notification of the decision. Upon receiving notification of an appeal to Committee, the Head of Environment, Housing & Leisure will submit a report to the Committee.

If a licensee/applicant wishes to appeal directly to a Court they should approach the Court and/or seek independent legal advice in relation to the correct forms and procedures. Court documentation should be served upon the Head of Law and Governance, The Quadrant, Silverlink North, Cobalt Business Park, North Tyneside, NE27 0BY.

Where the Head of Environment, Housing & Leisure refers a matter to the Regulation & Review Committee for determination he shall inform the licensee/applicant of this and will submit a report to the Committee.

A copy of the report to Committee and the procedure to be followed at the hearing is supplied to the licensee/applicant by Democratic Services. Copies of this Policy are available on the internet or upon request from the Licensing Office.

**Licensees/applicants are strongly advised to read the report and this Policy when preparing for the Committee hearing.**

The licensee/applicant shall be given notice in writing at least seven days in advance of the time and place of the hearing and of their right to be accompanied by a friend, family member or other person, including a solicitor, and shall be allowed to call witnesses.

The licensee/applicant shall also be given the opportunity to submit a written statement of his/her case or other supporting documents prior to the hearing. Documentation should be provided to Democratic Services of the Authority in advance of the hearing, if it is not, or if the Committee has not had sufficient time to consider the documentation the Committee may refuse to accept the documentation or may defer the matter to be determined to a later date to afford the parties an opportunity to consider the documentation.

## **7. Absence of the Licensee/Applicant**

The meeting may proceed in the absence of the Licensee/Applicant if they have informed the Licensing Authority or the Democratic Services 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 for the request.

If a licensee/applicant fails to attend or be represented at a meeting without notifying the Licensing Authority or Democratic Services Officer, the 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. In the interests of efficiency, meetings will generally proceed notwithstanding the absence of the Applicant if the Committee is satisfied that the applicant/licensee is aware of the hearing.

Where the Committee decides to proceed in the absence of the licensee/applicant the Committee will consider any information the licensee/applicant has supplied along with the report from the Head of Environment, Housing & Leisure.

If, a decision is made to adjourn a hearing the licensee/applicant will be advised of the new date, time and venue.

## **8. At the Hearing**

Members of the Committee may ask questions at all stages.

The Head of Environment, Housing & Leisure or his representative shall present a report in the presence of the licensee/applicant and his/her representative and may call witnesses.

The licensee/applicant and/or his/her representative shall have the opportunity to ask questions about the information provided by the Head of Environment, Housing & Leisure or his representative and any witnesses called.

The licensee/applicant and/or his/her representative shall then put his/her case and shall call such witnesses as he/she wishes.

The Regulation and Review Committee and the Head of Environment, Housing & Leisure or his representative shall have the opportunity to ask questions of the Licensee/Applicant and/or his/her representative and any witnesses called by or on behalf of the Licensee/Applicant.

The Head of Environment, Housing & Leisure or his/her representative and the Licensee/Applicant and his/her representative shall have the opportunity to sum up their case if they so wish. If all parties opt to sum up, the Licensee/Applicant or his/her representative may speak last.

The Licensee/Applicant and his/her representative and witnesses and the Head of Environment, Housing & Leisure or his representative and witnesses shall withdraw from the meeting. Officers from Law and Governance will remain in the meeting to provide procedural and legal advice

The Regulation and Review Committee shall deliberate in private, only recalling the Licensee/Applicant or his/her representative and the Head of Environment, Housing & Leisure or his representative to clear points of uncertainty. If this occurs all parties will be invited back into the hearing together. If the Committee has no additional queries the Licensee/Applicant and the Head of Environment, Housing & Leisure will be notified by a Democratic Services Officer and they will not be required to return to the meeting.

The Licensee/Applicant will be notified of the Regulation and Review Committee's decision and the reasons for it in writing, usually within five working days. Where a licence has been suspended, revoked or a renewal has been refused written notice must be given within 14 days.

## **9. Appeal to the Court**

There is a statutory right of appeal to the Magistrates Court in relation to:

- a refusal to grant a private hire or hackney carriage driver licence;
- any conditions attached to a private hire driver licence;
- a decision to suspend, revoke or refuse to renew a private hire or hackney carriage driver licence;
- a refusal to grant a private hire vehicle licence or against any conditions specified in the licence;
- a refusal to grant an operator's licence or any conditions attached to the grant of an operator's licence;
- a decision to suspend, revoke or refuse to renew an operator's licence.
- a decision to refuse to renew a hackney carriage proprietor's licence
- any conditions attached to a hackney carriage proprietor's licence

A further appeal can be made against the decision of the Magistrates' Court to the Crown Court.

An appeal against a refusal to grant a hackney carriage vehicle/proprietors licence lies straight to the Crown Court.

Any appeal must be lodged with the appropriate court 21 days of receipt of the decision. A court fee may be levied. Costs may be awarded by the court against an unsuccessful applicant or a licensee or may in some circumstances be awarded against the Authority. Any person considering an appeal may wish to take independent legal advice with regard to the merits of an appeal.

Usually, any action against the licence is stayed pending the outcome of a Court appeal (section 77(2) LG(MP) Act 1976). However, in cases where the public interest requires that a suspension or revocation of a driver licence should take immediate effect a decision can be made that section 77(2) shall not apply. In such cases the driver must be notified in writing, with an explanation as to why the action has been taken.

Decision making may also be challenged by judicial review in the High Court. It is recommended that independent legal advice should be sought if such a challenge is being considered.

## 10. WHO IS WHO?

The Licensee or Applicant

The Licensee or Applicant (accompanied by a friend or representative if so wished) is invited to attend and make representations to the Committee.

Officers of Environment, Housing and Leisure

Officers representing the Head of Environment, Housing & Leisure will submit information to the Committee to enable it to consider whether and what action should be taken.

On occasions a representative from the Police Authority, other body or a witness may

attend to provide relevant information.

The Regulation and Review Committee

The Regulation and Review Committee is the body which has the delegated authority from the Authority to decide upon appeals, disciplinary and other matters referred to it by the Head of Environment, Housing & Leisure.

Officers of Law and Governance

Officers representing Law and Governance advise the Committee on the relevant law and procedures. They do not take part in the decision making process.

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## **10. Hackney Carriage Stands**

### **Contents**

1. Appointed Stands
2. Creation of a Stand/Rank
3. Waiting on Stands
4. Byelaws

### **1. Appointed Stands**

The purpose of hackney carriage stands (also known as hackney carriage ranks) is to provide the public with a set location where they can hire a licensed hackney carriage. The stand is the only situation where a hackney carriage may ply for hire in a stationary position and should be situated in locations where the public is most likely to 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.

The Authority is required to continually review the provision of hackney carriage stands in the Borough. In this respect Officers work closely with the North Tyneside Hackney Carriage Trade and oversee an on-going programme of improving facilities at existing stands with, for example, the installation of illuminated taxi-cubes, guard rails and shelters at stands, all funded from an available Local Authority budget.

There are currently 24 official hackney carriage stands in the Borough providing spaces for a total of 84 vehicles. A list of the stands and their designated names and times of operation are available on the Authority website at [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk).

Transport facilities in the Borough are well served with eight of the busiest metro stations having a hackney carriage stand.

### **2. Creation of a Stand/Rank**

A new hackney carriage stand can be appointed under section 63 Local Government (Miscellaneous Provisions) Act 1976 or a taxi rank created by a Traffic Regulation Order using powers contained in the Road Traffic Regulation Act 1984. 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.

Prior to a new stand/rank 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.

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

Officers will monitor the use of stands in the Borough and it is expected that all stands are serviced.

Addition of creation of rank using Road Traffic Regulation Act 1984.
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**3. Waiting on Stands/Ranks and Etiquette**

It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait in any stand for hackney carriages or a rank reserved for hackney carriages to park.

Drivers of hackney carriages may only wait in a stand/rank whilst plying for hire or waiting for a fare.

Drivers of hackney carriages who park in a stand/rank and leave their vehicle unattended commit an offence.

Drivers of hackney carriages are expected to turn their vehicles off whilst waiting for a fare or to use their start stop technology if fitted.

Addition of requirement to turn off engine whilst waiting or use stop start technology
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**4. Byelaws**

The Authority has enacted a set of Byelaws regarding the operation and use of hackney carriages and their drivers. These include such matters as wearing of badge, driver conduct, plying for hire and use of the taxi stands/ranks. These will be reviewed as and when considered appropriate by the Authority.

## **11. Complaints Procedure**

The Authority recognises the high standards of the private hire and hackney carriage trade and expects all licensees to uphold these standards at all times. However it is recognised that there may be occasions for transport users and other members of the trade to make complaints and as such a complaints procedure has been devised.

All complaints received will be investigated. Complainants will receive a written acknowledgement of their complaint within 2 working days advising the name of the Officer assigned to investigate the complaint.

Complainants may be asked to put their complaint in writing if the complaint is such that formal action may result.

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

Licensees are expected to assist Officers investigations and make themselves available for interview at a mutually convenient time and place.

At the end of the investigation all parties concerned will receive confirmation of the result and action to be taken.

If any party is not satisfied as to the outcome the Authority's corporate complaints procedure is in place to deal with these issues.

## **Appendix A**

### **Hackney Carriage and Private Hire Vehicle specifications**

All licensed vehicles shall comply in all respects with the requirements set out below as appropriate for the type of vehicle. This is in addition to all requirements of the Road Traffic legislation, which relates to all motor vehicles.

All vehicles must comply with the requirements of Section A. Private Hire vehicles must comply with the requirements of Section B and Hackney Carriages must comply with the requirements of Section C.

If you are making a new application for a Hackney Carriage proprietors licence or are replacing a hackney carriage first licensed after July 1992, the vehicle must be wheelchair accessible and must also comply with the requirements of Section D.

All vehicles must have the appropriate type approval.

The following vehicle specification must be maintained throughout the licence period unless changes have prior approval by the Authority.

#### **Section A - General specification for all vehicles**

##### **GENERAL CONSTRUCTION**

1. The vehicle shall comply fully with all relevant statutory provisions relating to the construction of motor vehicles and including in particular those contained in the Road Vehicles (Construction and Use) Regulations 1986 (or any successor legislation).
2. Any modification to the vehicle (e.g. conversion to wheelchair accessible, alteration of the original seat configuration or any other 'adaptation') must be approved by the Authority and the appropriate certificate produced.
3. The vehicle shall be right hand drive with a fixed head type body.
4. The vehicle shall be capable of carrying in reasonable comfort at least four passengers.
5. The vehicle shall be M1 category. In the case of post registration conversions Individual Vehicle Approval is required.
6. The vehicle shall have a minimum unladen height of 1.325 metres (53").

##### **PASSENGER COMFORT**

7. Every passenger seat in the vehicle must meet the following minimum dimensions:
  - Individual seat width – 41cm (16")
  - Bench seat width (i.e. rear seat of a saloon vehicle) – 124.5cm (49") Width between door handles – 124.5cm (49")
  - Width between rear doors – 132cm (52")
  - Seat squab height measured from vehicle floor - 30cm (12")
  - Seat squab depth – 45cm (18")
  - Headroom measured from centre of seat to underside of roof – 87.5cm (35")
  - Legroom measured from seat back diagonally to vehicle floor – 94cm (37")
  - Unobstructed space in front of seat measured from seat back – 63.5cm (25")

Licensing Officers are able to exercise their discretion as to the suitability of a vehicle where the measurements are below the above dimensions.

8. There shall be no obstructions or features in the vehicle (e.g. prominent transmission tunnels, door furniture, vehicle controls, etc) which in the opinion of the Authority materially interferes with the comfort of any passenger.

9. The vehicle shall have an adequate heating and ventilation system for the comfort of all passengers.
10. The vehicle shall be equipped with either:
  - (a) A spare wheel of full or space save design above the legal tread requirement and the tools to change a wheel, or
  - (b) An emergency puncture repair kit (with compressor/inflation pack) or
  - (c) Run flat tyres or
  - (d) Provide evidence of a contract with a mobile tyre replacement specialist.

In the event of a space – saver tyre, run flat tyres (when punctured) or puncture repair kit being used, it is only to complete a fare and must comply and be maintained in accordance with the manufactures' recommendations. Any such defective wheel should be replaced before taking another fare to ensure passenger safety.

#### **PASSENGER SAFETY**

11. Glass shall have a minimum light transmittance of 75% for the front windscreen, 70% for the front side windows and 34% for all other vehicle window glass. [If tinted windows are fitted as standard there will be no minimum light transmission to the rear of the B pillar.]

Licensing Officers are able to exercise their discretion as to the suitability of a vehicle where the light transmittance of the windows is below 34%. This discretion however does not apply to the front windscreen or the front side windows.

12. The vehicle shall have at least 4 doors and open sufficiently wide so as to allow safe and easy access and egress. Each passenger, other than a front seated passenger, shall have access to at least two doors.
13. Every passenger seat shall be either forward or rear facing and shall be fitted with an approved (lap & diagonal) seat belt.

#### **LUGGAGE CAPACITY**

14. The vehicle shall have capacity to convey an appropriate quantity of luggage.

#### **Section B - Specification For Private Hire Vehicles**

15. The vehicle must not be black in colour or a colour which closely resembles black in the opinion of the Licensing Officer.
16. If the Private Hire vehicle is fitted with a meter, it must be properly tested and sealed.
17. Private Hire vehicles must not have a roof sign.

#### **Section C - Specification For Hackney Carriages**

18. Hackney Carriage vehicles must be black in colour.
19. Hackney Carriage vehicles must have fitted on the roof, an internally illuminated TAXI top sign meeting a specification in relation to size and colour approved by the Authority and relevant to the type of vehicle.
20. Hackney Carriage vehicles must be fitted with a taximeter, properly tested and sealed, and calibrated to enable testing in accordance with the Authority's current Hackney Carriage Fare Table.

## **Section D - Specification For New and Replacement Wheelchair Accessible Hackney Carriages Only**

### **GENERAL CONSTRUCTION**

21. The vehicle must comply fully with the requirements of the Road Vehicles (Construction and Use) Regulations 1986 (or any successor legislation) as well as all general policies and specifications of the Authority which relate to hackney carriage vehicles.
22. The vehicle must comply fully with Sections A and C of the preceding 'General Specification for all Hackney Carriages and Private Hire Vehicles'.

### **PASSENGER SAFETY AND COMFORT**

23. The vehicle must be capable of accommodating one or more wheelchairs in either a forward or rear facing position allowing adequate space to ensure the safety and comfort of the wheelchair user, and without interfering with the safety and comfort of any other passengers.
24. The design of the vehicle must allow safe access and egress of passengers including elderly and disabled passengers.
25. Wheelchair access to the vehicle must be from the nearside or rear of the vehicle. The door and doorway must be constructed as to permit an unrestricted opening across the doorway of at least 75cm.
26. The clear height of the doorway must not be less than 1.2 metres.
27. Grab handles must be placed at one or more passenger door entrances as appropriate, to assist the elderly and disabled.
28. The vertical distance between the highest part of the floor and the roof in the wheelchair passenger area must be no less than 1.3 metres.
29. Approved anchorages must be provided for the wheelchair and chair bound disabled person. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for the wheelchair and occupant must be independent of each other.
30. Suitable means of wheelchair access must be fitted to the vehicle. Ramps must be of suitable design to ensure that they do not slip or tilt when in use and they provide a suitable gradient when in use. Tail-lifts must be of an approved type.
31. If any of the seating within the vehicle has to be removed or adjusted in any way to accommodate one or more wheelchairs, the following conditions will also apply:
  - The removal/adjustment must be able to be carried out quickly and easily so that in the opinion of the Authority there is minimal inconvenience caused to any hirer of the vehicle by the 'conversion'
  - Where one or more seats require removal to accommodate one or more wheelchairs there must be adequate space on the vehicle for the secure storage of any removed seats.
  - Where one or more seats are either removed or they become unusable when the vehicle has been 'converted' for wheelchair use there must be at least one further useable passenger seat.

**Appendix B**  
**Conditions attached to a**  
**Hackney Carriage Proprietors Licence and Private Hire Vehicle Proprietors Licence**

The following conditions are attached to the grant/renewal of the following vehicle licence:

Plate Number:

Registration Number:

Name of licensee(s) including part proprietors:

Failure to comply with the conditions may lead to action being taken against your licence.

**STANDARD CONDITIONS**

**1. Maintenance Of Vehicle**

The vehicle, all of its fittings and any attached equipment shall at all times when the vehicle is in use or available for hire, be kept in a clean, safe, tidy and efficient state, and must also comply with all relevant statutory provisions including in particular those contained in the Road Vehicles (Construction and Use) Regulations 1986.

**2. Alteration Of Vehicle**

No material alteration or change to the vehicle, its fittings or any attached equipment shall be made without the prior approval of the Authority.

**3. Identification Plate**

The licence plate supplied by the Authority and identifying the vehicle as a hackney carriage/private hire vehicle shall be securely fixed externally on or about the off side area of the rear bodywork or bumper of the vehicle in a conspicuous position and in such a manner as to be easily removed if necessary by an authorised Officer of the Authority or a constable. The plate must be maintained in a satisfactory condition and be legible.

**4. Interior Identification Marking**

A sign supplied by the Authority indicating the licence number and the number of passengers the vehicle is licensed to carry, shall be displayed inside the vehicle in a prominent position on the inside of the windscreen so as to be clearly visible to passengers. The sign must be maintained in a satisfactory condition and be legible.

**5. Door Decals**

There shall be attached centrally to each front door of the vehicle the appropriate hackney carriage or private hire vehicle decals supplied by the Authority. The decals must be securely affixed or in the case of Hackney Carriage Vehicle permanently affixed to the vehicle and these must be maintained in a satisfactory condition and be legible.

**6. Safety Equipment**

Where a ramp or ramps are used, they must be fitted/carried safely in the vehicle at all times. The ramps must be identified with the vehicle registration number.

**7. Signs, Notices, Etc**

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

- Any sign, notice or other marking required to be displayed by legislation or any condition attached to this licence
- Advertising on the rear doors, rear wings and boot area of the vehicle (of two-dimensional insignia type) approved by the Authority

- Advertising along the top 8 cm strip of the windscreen of the vehicle provided that it is not illuminated and it bears only the name and/or telephone number in block letters of the firm operating the vehicle.

Signs, notices, advertisements, video [or digital display] etc must not be of a content that the Licensing Officer deems to be offensive or abusive.

A sign must be affixed to the inside of the vehicle indicating that smoking is prohibited in the vehicle.

## **8. Change Of Address**

The proprietor shall notify the Authority in writing within seven days of any change of address during the period of the licence.

## **9. Convictions, Cautions, Fixed Penalty, Community Resolutions or On-going Investigations**

The proprietor shall notify the Authority in writing within seven days if he/she is convicted of **any** offence or if he has been charged with an offence. He/she should **also** inform the Authority in writing within seven days of having received a caution, fixed penalty or community resolution and if released by the police on bail or under investigation.

## **10. Deposit Of Drivers Licence**

If the proprietor permits or employs any other person to drive the vehicle as a hackney carriage/private hire vehicle, the proprietor shall retain the person's hackney carriage/private hire drivers licence until such time as the driver ceases to be permitted or employed to drive the vehicle.

## **11. Transfer Of Interest**

The proprietor shall notify the Authority in writing, giving the name and the address of the new proprietor, within 14 days if he transfers his interest in the vehicle to another person.

## **12. Accident Notification**

The proprietor shall notify the Authority as soon as is practicable, or in any case within 72 hours of any accident which results in damage to the vehicle.

## **13. Additional Charges**

The proprietor shall pay the Authority any reasonable additional charges to be determined by the Authority for:

- A) the replacement of any lost, damaged or stolen plate, decal or sign provided by the Authority (and which is required to be attached or displayed on or in the vehicle as a condition of this licence);
- B) any vehicle test appointment for which the proprietor fails to present the vehicle for testing or which is cancelled by the proprietor without giving at least 48 hours notice to the Authority.

## **14. Insurance**

All vehicles must have a current valid policy of insurance at all times appropriate to the vehicle.

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

## **Additional Conditions/departure from standard conditions**

As required

Stamped/dated



## **Appendix C**

### **Vehicle Testing Arrangements – Components to be Inspected**

#### **Body / Vehicle Structure**

Free from excessive corrosion or damage in specific areas. No sharp edges likely to cause injury.

#### **Speedometer**

Condition and operation.

#### **Fuel System**

No leaks. Security and condition of pipes/hoses. Fuel cap fastens and seals securely.

#### **Exhaust Emissions**

Vehicle meets the requirements for exhaust emissions, dependent on the age and fuel type of the vehicle.

#### **Exhaust System**

Secure. Complete. Catalyst missing where one was fitted as standard. Without serious leaks and is not too noisy.

#### **Seat Belts**

All the seat belts fitted are checked for type, condition, operation and security. All mandatory seat belts must be in place. Check of the Malfunction Indicator Lamp (MIL) for air bags and seat belt pre tensioners and load limiters.

#### **Seats**

Drivers seat for adjustment. All seats for security and seat backs can be secured in the upright position.

#### **Doors**

Latch securely in closed position. Front doors should open from the inside and outside the vehicle. Rear doors should open from outside the vehicle. Hinges and catches for security and condition.

#### **Mirrors**

Minimum number required, condition and security. Indirect vision devices.

#### **Load Security**

Boot or tailgate can be secured in the closed position.

#### **Brakes**

Condition including inappropriate repairs or modifications, operation and performance (efficiency test). Note the removal of the road wheels and trims are not part of the test. Anti-lock Braking System (ABS) and Electronic Stability Control (ESC) where fitted. Check of the dashboard Malfunction Indicator Lamp (MIL) for ABS, ESC, electronic park brake and brake fluid warning.

#### **Tyres and Wheels** (including spare)

Condition, security, tyre size/type and tread depth. Note: vehicles first used on or after 1<sup>st</sup> January 2012 – check of the MIL for Tyre Pressure Monitoring System (TPMS).

#### **Registration Plates**

Condition, security, colour, characters correctly formed and spaced.

#### **Lights**

Condition, operation including High Intensity Discharge (HID) and Light Emitting Diode (LED) headlamps for cleaning, self-levelling and security. Headlamp aim. Main beam warning light.

#### **Bonnet**

Securely latches in the closed position.

#### **Wipers / Washers**

Operate to give the driver a clear view ahead.

#### **Windscreen**

Condition and driver's view of the road.

#### **Horn**

Correct operation and of suitable type.

**Steering and Suspension**

Condition, steering oil level, operation, a check for inappropriate repairs or modification including corrosion to power steering pipes or hoses. Operation of steering lock mechanism. Check of MIL for electronic power steering and steering lock.

**Towbars** (if fitted)

Security/condition/inappropriate repairs or modification. Correct operation of 13 pin electrical socket.

**Vehicle Identification Number**

Present on vehicles first used on or after 1<sup>st</sup> August 1980. A single VIN is displayed except on multistage build vehicles (e.g. van conversion, BMW/ Alpina).

**Electrical**

Visible electrical wiring and battery

**Vehicle Interior**

Clean.

**Vehicle Exterior**

Uniform colour.

**Glass**

Windscreen - minimum 75% light transmittance.

Front side windows - minimum 70% light transmittance

All other windows – minimum 34% light transmittance

[If tinted windows are fitted as standard there will be no minimum light transmission to the rear of the B pillar.]

**Meter** (if fitted)

Must be of an approved type and sealed.

**Spare Wheel**

The vehicle shall be equipped with either:

- (a) A spare wheel of full or space save design above the legal tread requirement and the tools to change a wheel, or
- (b) An emergency puncture repair kit (to include compressor/inflator) or
- (c) Run flat tyres or
- (d) Provide evidence of a contract with a mobile tyre replacement specialist.

**Wheel-brace & Jack (only if spare wheel present)**

Present. Correct operation.

**Luggage Accommodation**

Compartment clean, empty.

**Seats & Interior Trim**

Clean, free from rips or tears.

**Floor Covering**

Clean. No obstructions.

**Licence Plate** (Annual and Interim Tests Only)

Present. Securely attached to vehicle. Correct location on vehicle. In satisfactory condition and information legible

**NTC Windscreen Disc**

Present. Securely attached to windscreen. In satisfactory condition, information legible.

**NTC Door Signs**

Present. Fitted correctly. In satisfactory condition, information legible.

**NTC Emergency/ Information Signs** (Minibuses/PCV's)

Present. In satisfactory condition, information legible.

**For Hire Sign** (hackney carriage only)

Present. Works in conjunction with meter and roof-sign.

**Roof Sign** (Hackney carriages only)

Present. Correct type and size for type of vehicle. Correct colours. Lettering correct size.

**Advertising - bodywork**

Approved. Present only on rear doors & boot area of vehicle unless approved.

**Advertising - glass**

Approved. Present only on top edge of windscreen.

**NTC Fare Table** (hackney carriage only) (Dashboard/partition/Rear Windows)

Present. In satisfactory condition. Most recent issue.

**Byelaws** (hackney carriage only)

Present. Satisfactory condition and legible

**Interior Door Locks** (Purpose built hackney carriage only)

Work in conjunction with foot-brake.

**Ramps** (if present)

Present. Stored securely. Adequate locking device must be fitted to ensure the ramps do not slip or tilt when in use.

**Wheelchair Anchorages** (if applicable)

Must be of an approved type (chassis or floor linked and capable of withstanding approved dynamic or static tests).

**Tail-Lifts** (if present)

Must have valid LOLER Certificate. Tail lift must not prevent the rear door(s) from being opened and must be easily moved if the power supply fails.

**Appendix D**  
**Standard 'Exemption Notice' Conditions**  
**Executive Hire Vehicles**

**General Conditions**

1. The Proprietor shall notify the Authority immediately in writing if there is any material change in the nature of the use of the vehicle.
2. The Proprietor shall ensure that the private hire vehicle licence identification disc issued by the Authority is displayed within the nearside of the front windscreen at all times.
3. The 'Exemption Notice' issued by the Head of Environment, Housing & Leisure in respect of the licensed private hire vehicle shall be carried within the vehicle at all times, and presented for inspection at the request of an Authorised Officer of the Authority, a Police Constable or the hirer.
4. Other than the Authority's Licence Identification Disc; the proprietor shall not display in, on or from the vehicle any advertisement, sign, logo or insignia advertising the operating company or promoting the vehicles' status as a licensed private hire vehicle, without the prior written approval of the Head of Environment, Housing & Leisure.
5. The Private Hire Vehicle proprietors licence identification plate and decals issued by the Authority shall not be affixed to the vehicle, and shall not be displayed in, on or from the vehicle at any time.
6. The Private Hire Vehicle proprietors licence identification plate issued by the Authority shall be carried in the luggage compartment of the vehicle at all times and produced for inspection at the request of an Authorised Officer of the Authority, a Police Constable or the hirer.
7. No taximeter shall be displayed within the vehicle at any time.
8. No table of fares/tariff card shall be displayed in the vehicle at any time.
9. A tariff of charges shall be deposited with the Authority and shall be carried within the vehicle at all times.
10. The Proprietor shall not change the body colour(s) which were present when the vehicle was first licensed without the prior written consent of the Head of Environment, Housing & Leisure.
11. The Proprietor shall ensure that the driver of the vehicle does not wear the private hire drivers licence identification badge issued by the Authority or display that badge in, on or from the vehicle at any time.
12. The Proprietor shall ensure that the private hire drivers identification badge issued by the Authority shall be carried within the vehicle at all times and produced for inspection at the request of an Authorised Officer of the Authority, a Police Constable or the hirer.
13. The Proprietor shall ensure that the driver of the vehicle shall be appropriately dressed in a chauffeur's uniform or business suit when the vehicle is hired.
14. The Proprietor shall ensure that the hirer shall be afforded the facility to settle accounts and/or tender direct payment by credit card, debit card, cheque or cash.

**Additional Conditions**

Any executive hire vehicle wishing to take advantage of the exemption limiting the window tint (less than 34% light transmittance) should 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). The driver must not act as the accompanying adult. Further, the Operator must, unless such a vehicle has been specifically requested, inform a hirer that such a vehicle with tinted windows will be supplied.

## **Appendix E**

### **Private Hire Driver Licence Conditions of Licence**

The following conditions are attached to the grant of the following driver licence:

Name of licensee:

Licence Number:

Failure to comply with the conditions may lead to action being taken against your licence.

#### **1. Conduct of Driver**

The Driver shall:-

1. Afford all reasonable assistance with passenger's luggage
2. At all times comply with the Authority dress code and behave in a civil and orderly manner
3. Take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him/her
4. Not without the express consent of the hirer, drink or eat in the vehicle.
5. Not without express consent of the hirer, play any radio or sound reproducing instrument or equipment in the vehicle he/she is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
6. Drivers are issued with two badges, one to be worn around the neck. At all times when acting in accordance with this licence a badge licensed to him/her must be displayed in such a position and manner as to be plainly and distinctly visible to passengers.

The Driver shall not smoke in the vehicle at any time, including when the vehicle is not available for hire.

#### **2. Passengers**

1. The driver shall not convey or permit to be conveyed in a private hire vehicle a greater number of persons than that prescribed in the licence for the vehicle.
2. The driver shall not allow there to be conveyed in the front of a private hire vehicle beside him/her:
  - (a) Any child below the age of three years, or
  - (b) more than one person

#### **3. Lost Property**

If any identifiable property is left in a private hire vehicle by any person who may have been conveyed therein is found by or handed to the driver, he/her shall take it as soon as possible in any event within twenty four hours, if not sooner claimed by or on behalf of its owner to a convenient police station and leave it in the custody of the Officer on his/her giving a receipt for it.

#### **4. Written Receipts**

The driver shall if requested by the hirer of a private hire vehicle provide him/her with a written receipt for the fare paid.

#### **5. Animals**

The driver shall not convey in a private hire vehicle any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle whilst the vehicle is hired and he/she shall ensure that any animal belonging to or in the custody of any passengers is conveyed in the rear of the vehicle.

This does not apply to a disabled person's guide, hearing or assistance dog which must be carried in a private hire vehicle or hackney carriage vehicle without any additional charge, unless the driver holds a Certificate of Exemption on medical grounds issued under the Equality Act 2010.

#### **6. Prompt Attendance**

The driver of a private hire vehicle shall, if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or he/she has otherwise been instructed by the operators or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at the appointed time and place, unless delayed or prevented by sufficient cause.

#### **7. Deposit Of Licence**

If the driver is permitted or employed to drive a private hire vehicle of which the proprietor is someone, other than himself, he/she shall before commencing to drive that vehicle deposit this licence with that proprietor for retention by him until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle.

#### **8. Change Of Address**

The driver shall notify the Licensing Office in writing of his/her address during the period of the licence within seven days of such change taking place.

#### **9. Medical Fitness**

The driver inform the Licensing Office immediately if he/she suffer from a medical condition or disability or a condition or disability previously notified worsens that may alter his/her ability to drive a vehicle.

A driver or prospective driver who receives medical treatment or medical consultation shall confirm with their medical attendant whether they are at that time fit to undertake the duties of a private hire vehicle driver. Where any medical attendant specifies that a driver or prospective driver should not drive for a determinate or indeterminate period that driver or prospective driver shall notify the Authority immediately in writing of such medical opinion.

The requirement will not apply to any temporary incapacity or treatment for the duration of which the driver or prospective driver does not intend to drive a private hire vehicle.

#### **10. Convictions, Cautions, Fixed Penalty, Community Resolutions or On-going Investigations**

The driver shall within seven days disclose to the Authority in writing details of **any** conviction (including all motoring offences), caution, fixed penalty or community resolution received during the period of the licence. The driver shall also notify the Authority in writing within seven days if he/she has been charged with an offence or has been released by the police on bail or under investigation.

#### **11. People who have spent time overseas**

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

#### **12. Return Of Badges**

The driver shall upon the expiry, revocation or suspension of this licence forthwith return to the Authority the driver's badges issued by the Licensing Office when granting this licence.

#### **13. Taxi Meter**

If a private hire vehicle is fitted with a taxi meter or other Authority approved device used to calculate the fare, the driver shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless credit is to be given).

#### **14. Fare To Be Demanded**

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

#### **15. No smoking Policy**

Smoking in a smoke-free place is prohibited under the Health Act 2006 by both the driver and passengers.

In this context a 'smoke-free place' includes a licensed hackney carriage and private hire vehicle as well as a private hire operator's premises.

Smoking also includes the use of e-cigarettes.

**16 Renewal of Licence**

The driver must apply to renew a private hire driver's licence at least 10 working days before the licence is due to expire

**17. Wheelchair Accessible Vehicles**

All drivers of wheelchair accessible vehicles must:

- (i) Be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.
- (ii) Before any movement of the vehicle takes place ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.
- (iii) Ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers or to anyone else, in accordance with Regulation 100 of the (Construction and Use) Regulations 1986.

**18. Responsibility Towards Authority Employees**

Drivers are expected to be polite and courteous at all times and to comply with any reasonable request made by a Licensing or Civil Enforcement Officer or Testing Mechanic. Verbal or physical abuse will not be tolerated.

**19. Subscription to the Disclosure and Barring Service (DBS) Update Service**

All drivers will be required to subscribe to the DBS update service.

**20. All drivers must read the Authority's Hackney Carriage and Private Hire Licensing Policy and act in accordance with the Policy as it applies to them.**

## **Appendix F**

### **Code Of Good Conduct For Licensed Drivers**

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Authority 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.

#### **1. Responsibility to the Trade**

Licensees 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 Authority's Hackney Carriage and Private Hire Licensing Policy; Byelaws
- (c) behaving in a professional manner at all times.

#### **2. Responsibility to Clients**

Licensees 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 a pre-booked hiring;
- (d) assist, where necessary, passengers into and out of vehicles;
- (e) offer passengers reasonable assistance with luggage.

#### **3. Responsibility to Residents**

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

- (a) only use the vehicle horn in accordance with the law;
- (b) keep the volume of radio/cassette/cd player and VHF/digital radios to a minimum;
- (c) switch off the engine if required to wait;
- (d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.

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

- (a) stand in an orderly manner and proceed along the stand in order and promptly;
- (b) remain in the vehicle.

At private hire offices a licensee shall:

- (a) not allow their radio/cassette/cd players or VHF/digital radios to cause disturbance to residents of the neighbourhood;
- (b) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood which might arise from the conduct of their business.

#### **4. General**

Drivers 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 and in particular shall not use a hand held mobile phone whilst driving;
- (d) obey all Traffic Regulation Orders and directions at all time;
- (e) not smoke in the vehicle at any time (this includes e-cigarettes);
- (f) not consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle;
- (g) not drive while having misused legal or illegal drugs;
- (h) fulfill their responsibility to ensure compliance with legislation regarding the length of working hours.

**PLEASE NOTE: ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT**



THE AUTHORITY WILL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE CONSUMED ANY ALCOHOL OR HAVING MISUSED ANY DRUGS WHILST IN CHARGE OF A LICENSED VEHICLE.

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## **Appendix G**

### **Drivers Dress Code**

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

The dress code is not a condition of licence and will not be enforced as such, however the Licensing Authority encourages drivers to comply with the requirements.

#### **Acceptable Standards of Dress**

##### **Tops**

- Shirts, blouses, T-Shirts or sweat tops should cover the shoulders and be capable of being worn inside trousers or shorts.
- Shirts or blouses may be worn with a tie or open necked.

##### **Footwear**

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

#### **Unacceptable Standard of Dress**

##### **The following are deemed unacceptable:**

- Clothing not kept in a clean condition, free from holes and rips.
- Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- Sportswear (e.g. football/rugby kits, track suits, beach wear etc).
- Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- Drivers not having either the top or bottom half of their bodies suitably clothed.

## **Appendix H**

### **Private Hire Operators Licence** **Conditions of Licence**

#### **1. RECORDS**

- (i) The records required to be kept by the operator under section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 must be kept in a suitable book, the pages of which are numbered consecutively, or other durable recording format and the operator shall enter or cause to be entered therein **before** the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him, including where a booking is sub-contracted (whether the vehicle that is used is licensed under section 48 of the 1976 Act, or is licensed as a hackney carriage under section 37 of the Town Police Clauses Act 1847):
- a) The time and date of the hiring
  - b) The name of the hirer
  - c) The agreed time of the pick-up
  - d) The point of pick-up
  - e) The destination
  - f) The proprietor, registration number, licence number and call sign of the vehicle/driver allocated for the booking
  - g) The name and licence number of the driver
  - h) Remarks (including details of any sub-contract)
- (ii) The operator shall also keep records of the particulars of all vehicles operated or used by him (whether licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or under section 37 of the Town Police Clauses Act 1847, which particulars shall include details of the proprietors, registration numbers, licence number and drivers of such vehicles, together with any radio call sign used.
- (iii) All records which are required to be kept under the conditions of licence must be made available upon request to an authorised Officer of the Authority or a constable.
- (iv) The operator shall keep records of all desk clerks employed by him, including their name, date of birth and home address. A daily record must be kept of the time worked by each clerk.
- (v) The desk clerk shall sign the booking sheet at the start of each duty.
- (vi) All records kept by the operator shall be preserved for a period of not less than ONE year following the date of the last entry.
- (vii) [The operator shall keep a register of all staff who take bookings or despatch vehicles.
- (viii) The operator shall have sight of a basic DBS check on all staff listed in the register of staff.
- (ix) The operator shall have a policy on employing staff who are ex-offenders and who are responsible for taking bookings and despatching vehicles and the operator will provide the Authority with a copy of that policy and any revised policy no later than seven days of its completion/revision.]

#### **2. STANDARD OF SERVICE**

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall 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 shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.
- b) Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.
- c) Ensure that any waiting area provided by the operator has adequate seating facilities.
- d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.

**3. COMPLAINTS**

The operator shall notify the Authority in writing, within seven days, of any complaints concerning a contract for hire or purported contract for hire relating to or arising from his business and of the action (if any) which the operator has taken or proposes to take in respect thereof.

**4. CHANGE OF ADDRESS**

The operator shall notify the Authority in writing of any change of his/her address during the period of the licence within seven days of such change taking place.

**5. CONVICTIONS, CAUTIONS, COMMUNITY RESOLUTION OR ON-GOING INVESTIGATIONS**

The operator shall within seven days disclose to the Authority in writing details of any conviction, caution or community resolution imposed on him/her (or, if the operator is a Company, of any its Directors) during the period of the licence. The operator shall within seven days disclose to the Authority in writing of any on-going police (or other authority) investigation of him (or, if the operator is a Company, of any its Directors).

**6. OPERATORS LICENCE**

Operators shall operate wholly from those premises specified in the licence and situated within the boundaries of the Borough of North Tyneside.

The Operator shall display the Operator's Licence issued by the Local Authority in a conspicuous position at the licensed premises.

**7. SPECIAL CONDITIONS RELATING TO PORTACABINS**

- (i) The operator will provide and maintain hot and cold running water and wash hand basin facilities, which will be permanently connected to the main sewage system.
- (ii) The operator will provide and maintain toilet facilities which are to be permanently connected to the main sewerage system.

- 8.** Operators should read the Authority's Hackney Carriage and Private Hire Licensing Policy and act in accordance with Policy as it applies to them.

**BYELAWS**

**Metropolitan Borough of North Tyneside Byelaws made under Section 68 of The Town Police Clauses Act 1847, and Section 171 of The Public Health Act 1875 by the Authority of the Borough of North Tyneside, with respect to hackney carriages in the Borough of North Tyneside dated 4<sup>th</sup> March 1977 (all previous versions of these repealed)**

**INTERPRETATION**

1. Throughout these byelaws “the Authority” means the Authority of the Borough of North Tyneside and “the district” means the Borough of North Tyneside.

PROVISIONS REGULATING THE MANNER IN WHICH THE NUMBER OF EACH HACKNEY CARRIAGE CORRESPONDING WITH THE NUMBER OF ITS LICENCE SHALL BE DISPLAYED

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

PROVISIONS REGULATING HOW HACKNEY CARRIAGES ARE TO BE FURNISHED OR PROVIDED

3. Every proprietor of a hackney carriage shall:-
- (a) provide sufficient means by which any person in the carriage may communicate with the driver
  - (b) cause any roof or covering to be kept water tight
  - (c) provide any necessary windows and a means of opening and closing not less than one window on each side
  - (d) cause the seats to be properly cushioned or covered
  - (e) cause the floor to be provided with a proper carpet mat or other suitable covering
  - (f) cause the fittings and furniture generally to be kept in a clean condition well maintained and in every way fit for public service
  - (g) provide means for securing luggage if the carriage is so constructed to carry luggage
  - (h) provide for an efficient fire extinguisher which shall be carried in such a position as to be readily available for use
  - (i) in cases of motor hackney carriage provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. Every proprietor of a motor hackney carriage shall cause the same to be provided with a taximeter so constructed attached and maintained as to comply with the following requirements that is to say: -
- (a) If the taxi meter is fitted with a flag or other device bearing the words “FOR HIRE”
    - (i) the words “FOR HIRE” shall be exhibited on each side of the flag of the flag or other device in plain letters at least one and a half inches in height and the flag or other device shall be capable of being locked in a position in which the words are horizontal and legible
    - (ii) when the flag or the other device is so locked the machinery of the taximeter shall not be in action and the means of bringing it into action shall be by moving the flag or other device so that the words are not conveniently legible
  - (b) If the taximeter is not fitted with a flag or other device bearing the words “FOR HIRE”

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

5. Every proprietor of a motor hackney carriage provided with a taximeter not fitted with a flag or other device bearing the words "FOR HIRE" shall cause the carriage to be provided with a sign so constructed as to comply with the following requirements that is to say:-

- (a) the sign shall bear the words "FOR HIRE" in plain letters at least one and a half inches in height
- (b) the sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the vehicle whether or not the vehicle is for hire

PROVISION REGULATING THE CONDUCT OF THE PROPRIETORS AND DRIVERS OF HACKNEY CARRIAGES PLYING WITHIN THE DISTRICT IN THEIR SEVERAL EMPLOYMENTS AND DETERMINING WHETHER SUCH DRIVERS SHALL WEAR ANY AND WHAT BADGES

6. Every driver of a motor hackney carriage shall:-

- (a) if the taximeter is fitted with a flag or other device bearing the words "FOR HIRE"
  - (i) when standing or plying for hire keep such flag or other device locked in the position in which the words are horizontal and legible
  - (ii) as soon as the carriage is hired by distance and before commencing the journey bring the machinery of the taximeter into action by moving the flag or other device so that the words are not conveniently legible and keep the machinery of the taximeter in action until the termination of hiring
- (b) if the taximeter is not fitted with a flag or other device bearing the words "FOR HIRE"
  - (i) when standing or plying for hire keep the taximeter locked in the position in which no fare is recorded on the face of the taximeter and operate the sign provided in pursuance of byelaw 5 so that the words "FOR HIRE" are clearly and conveniently legible by persons outside the carriage
  - (ii) as soon as the carriage is hired whether by distance or by time or at any time when the carriage is not available operate the said sign so that the words "FOR HIRE" are not conveniently legible by persons outside the carriage
  - (iii) as soon as the carriage is hired by distance and before commencing the journey, bring the machinery of the taximeter into action by moving the key or other device fitted for the purpose so that the words "HIRED" or other indication that the vehicle has been hired is legible on the face of the taximeter, and the machinery of the taximeter in action until the termination of the hiring
- (c) cause the dial of the taximeter to be properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972 and also at any other time at the request of the hirer

7. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto

8. The driver of a hackney carriage shall, when plying for hire in the street and not actually hired:-
- (a) proceed with reasonable speed to one of the hackney carriage stands appointed by the Authority under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 for his particular class of vehicle;
  - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
  - (c) on arriving at the stand in Front Street, Tynemouth (at eastern end of the parking area in the centre of the carriageway opposite the junction with Hotspur Street) if the same is not already occupied by the full number of carriages authorised to occupy it, station the carriage obliquely to the line of the carriageway in the direction indicated by white lines painted upon the carriageway and on one of the vacant spaces indicated by such white lines; and
  - (d) on arriving at the stand other than one referred to in paragraph (c) above:-
    - (i) if the stand is not already occupied by the full number of carriages authorised to occupy it, station the carriage or carriages on the stand and so as to face the same direction; and
    - (ii) from time to time when any other carriages immediately in front is driven off or moved forward causing his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward
9. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
10. If a badge has been provided by the Authority and delivered to the driver of a hackney carriage, either with the licence granted to him by the Authority or afterwards, he shall when standing, plying for hire and when hired, wear that badge in such position and manner as to be plainly and distinctly visible.
11. Every driver of a hackney carriage so constructed as to carry luggage shall when requested by any person hiring or seeking to hire the vehicle:-
- (a) convey a reasonable quantity of luggage
  - (b) afford reasonable assistance in loading and unloading
  - (c) afford reasonable assistance in removing it to or from the entrance to any house, station or place, at which he may take up or set down such a person
12. The proprietor or driver of a hackney carriage shall at all times when standing, plying for hire and when hired, conduct himself in an orderly manner, and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
13. Every proprietor of a hackney carriage who shall knowingly convey in the carriage the dead body of any person shall immediately thereafter, notify the fact to the Chief Environmental Health Officer of the Authority.
14. A driver or proprietor of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any persons to hire such carriage and shall not make use of the services of any other person for this purpose.
15. A proprietor of a hackney carriage shall not convey or permit to convey in such carriage any greater number of persons than the number of persons specified by the Authority which number shall be legible marked or painted on the plates required by Byelaw 2(a). For the purpose of this byelaw two children each under the age of 12 years may be regarded as one person.
16. Every driver of a hackney carriage shall at all times when standing, plying or driving for hire when required by any police constable or any person hiring such carriage produce a copy of these byelaws for the perusal and inspection of such constable or person.

17. The driver of a hackney carriage shall not at anytime when driving for hire, smoke tobacco or any like substance without the permission of the person hiring and being conveyed in such carriage.

#### PROVISION FOR SECURING THE DUE PUBLICATION OF FARES

18. (a) The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Authority, the rate or fare being calculated by distance unless the hirer expresses at the commencement of the hiring his desire to engage by time.
- (b) Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand or take a fare greater than that recorded on the face of the taximeter save for any extra charges authorised by the Authority which it may not be possible to record on the face of the taximeter.
- (c) The proprietor of a hackney carriage shall:-
- (i) cause a statement of the fares from time to time fixed by the Authority under the provisions of Section 65 of the Local Government (Miscellaneous Provisions) Act, 1976 to be painted or marked on the inside of the carriage, or on a place fixed thereto in clearly distinguishable letters and figures; and
  - (ii) renew such letters and figures as often as is necessary to keep them clearly visible
- (d) The proprietor of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

#### PROVISIONS SECURING THE SAFE CUSTODY AND REDELIVERY OF ANY PROPERTY ACCIDENTALLY LEFT IN HACKNEY CARRIAGES AND FIXING THE CHARGES TO BE MADE IN RESPECT THEREOF

19. The proprietor or driver of a hackney carriage shall immediately after termination of any hiring or as soon as practicable thereafter and before the next hiring, carefully search the carriage for any property that may have been accidentally left therein.
20. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him
- (a) carry it within twenty four hours, if not sooner claimed by or on behalf of its owner, to the office of the Superintendent of Police at North Shields, Wallsend or Whitley Bay and leave it in the custody of the officer in charge on his giving a receipt for it,
  - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the nearest office of the Superintendent of Police referred to in Byelaw 22(a) whichever is the greater) but not more than five pounds.

#### SPECIAL PROVISIONS IN RELATION TO HACKNEY CARRIAGES DRAWN BY ANIMALS

21. The driver of a hackney carriage drawn by any animal or animals shall, while standing, ply or driving for hire, cause every part of the harness of the animal or animals drawing the carriage to be kept in order, so that the animal or animals shall be properly and securely attached to the carriage, and under due control.
22. The proprietor or driver of a horse-drawn hackney carriage shall not, in any street, feed or allow to be fed any horse harnessed or otherwise attached to such carriage, except with food contained in a proper bag or other receptacles suspended from the head of such horse or from the centre pole of the carriage, or which is held in and delivered with the hand of the person feeding such horse.
23. The proprietor or driver of a hackney carriage shall not while standing, plying or driving for hire, drive or allow to be driven, or harness 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.



- 24.** The distance to which the driver of a hackney carriage drawn by any animal or animals may be compelled to take passengers shall be any distance along the sea front between Feathers Caravan Site, Whitley Bay to the North, and the Haven, Tynemouth to the south, provided that, on journeys from south to north, this shall include such deviations from the Sea Front Highway along Park Avenue and Park Road, Whitley Bay as are required by the Whitley Bay one way circulatory System.
- 25.** The following provisions shall not apply in respect of horse drawn hackney carriages:-
- Byelaws 3(a), (b), (c), (d), (e), (g) and (i), 4, 5, 6, 7 and 12.
- 26.** Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding fifty pounds in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefore.

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## Appendix 2

### Amendments to Policy

#### Consultation document

Chapter	Description of amendment and consultation Question
Pg 2	Insertion of Executive Summary
Pg 3	Insertion of version control
Ch 1	Expansion of objectives to include environmental considerations
Ch 1	Detail of link to Transport Strategy
Ch 1	Updated information on list of wheelchair accessible vehicles (designated vehicles) and the responsibilities that drivers have to customers with protected characteristics under the 2010 Act.
Ch 2	Advertisements, signs and notices Addition to allow in car digital advertising if in accordance with the approvals contained in this Policy. Q1 Do you agree or disagree with the addition of an exception for in car digital advertisements? Please provide the reasons for your response.
Ch 2	Vehicle testing Q2 Which of the following options do you prefer: That the only testing station vehicles can use is one provided by North Tyneside Council? That other authorised testing stations within North Tyneside can also be used? I do not have an opinion on this proposal. Please provide reasons for your response.
Ch 2	Application procedure Insertion to allow applications to be made on line where available.
Ch 2	Tinted windows No minimum light transmission to rear of B pillar. Q3 – Do you agree or disagree that the Policy should be amended to allow windows with no minimum tint for all windows to the rear of the B pillar provided it is fitted as standard to the vehicle? Please give reasons for your response.
Ch 2	Emission/Age standards Insertion of age standards starting from 1 April 2020. Q4 Do you:  a) Agree or disagree that an age standard should be added to this Policy? b) Please give reasons for your reasons. c) If agree, do you agree or disagree with the age standards proposed in this Policy? d) If disagree, what alternative age standards would

	you suggest?
Ch 3	Driver knowledge/locality test Q5 Do you have any comment to make on the proposal that there be restrictions on the number of attempts within a three month period? Please give reasons for your response.
Ch 3	Driver knowledge/locality test Q6 Do you believe the driver knowledge/locality test should: a) continue in its current format b) remove the locality element of the test for both hackney carriage and private hire driver applicants c) remove the locality element of the test for private hire driver applicants only? Please give reasons for your response.
Ch 3	DBS process Inclusion of mandatory requirement to sign up to the Disclosure and Barring Service Online Update Service. Q7 Do you agree or disagree with the mandatory requirement to sign up to the Disclosure and Barring Service Online Update Service? Please give reasons for your response.
Ch 3	New /renewal applications Insertion to allow applications to be made on line.
Ch 3	Incomplete applications Insertion to allow applications to be made on line and increase in time period to submit renewal application from 7 days to 10 working days.
Ch 3	Insertion of need for drivers to be aware of conditions and byelaws.
Ch 4	Insertion of fitness test for Operators.
Ch 4	Insertion of need for operators to be aware of conditions.
Ch 4	Application procedure Insertion to allow applications to be made on line where applicable.
Ch 7	Hackney carriage and private hire drivers Insertion of Authority's ability to suspend, revoke or refuse to renew a driver licence if the driver convicted of an immigration offence or failure to pay an immigration penalty.
Ch 7	Section A – Guidance as to the Relevance of Convictions, Reprimands, Final Warnings, Cautions & Fixed Penalties Amendment from Regulation and Review Committee to Cabinet Clarification concerning convictions of abuse and exploitation Clarification on matters to be considered when assessing the fitness of a person to hold a licence.
Ch 7	Formal Cautions, Fixed Penalties or Community Resolutions Expansion of meaning of consideration of convictions Addition of Community Resolutions and clarification of all

	disposals that need to be referred to the Authority.
Ch 7	Offences of violence, discrimination and possession of a weapon Increase of time free from conviction for offences of violence, discrimination and possession of a weapon. Convictions following some offences will mean that a licence is not granted.
Ch 7	Sexual and Indecency offences Clarification of consideration of sexual and indecency offences.
Ch 7	Expansion of driving offences Q8. Do you agree or disagree with the proposal that the time periods during which a licence will not be granted is expanded for: a) drink driving and drug convictions b) using a hand-held mobile telephone or device? Please give reasons for your response.
Ch 7	Vehicle use offences Addition of offences which involve the use of a vehicle.
Ch 7	Licensing offences Q9. Do you agree or disagree with the time periods contained within chapter 7? Please give reasons for your response.
Ch 9	Decision making Update of information concerning Members Code of Conduct.
Ch 10	Addition of creation of rank using Road Traffic Regulation Act 1984.
Ch 10	Waiting on stands and rank etiquette Addition of requirement to turn off engine whilst waiting or use stop start technology
Removal from Policy	Appendix – list of ranks. This will be available from website and licensing office.

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# North Tyneside Council Report to Regulation and Review Committee Date: 24 October 2019

Report from Service Area: Law and Governance

Responsible Officer: Emma Rothery (Tel: 0191 643 5361)

Wards affected: All

## 1.1 Purpose

To inform Regulation and Review Committee of the complaints received by the Authority and progress in relation to the one corporate complaint they have considered during 2018-19.

## 1.2 Recommendation

1. Note the actions taken.
2. Refer any dissatisfaction regarding progress to the Head of Service of the responding Department.

## 1.3 Information

- 1.3.1 Corporate complaint 102395925 relating to Health, Education, Care and Safeguarding Skills and Learning Service.  
Committee Date: 3 September 2018

The complaint related to the complainant's son and the process that had been followed in creating and implementing an Education and Health Care Plan (EHCP). The complainant felt that the way in which North Tyneside Council had dealt with the situation since February 2017 had demonstrated maladministration, incompetence and a lack of empathy/support throughout. The specific points of complaint were:

- 1) Failure to finalise the EHCP on time; specifically around the delay in starting and completing the EHC needs assessment;
- 2) Extensive delay in securing suitable, full-time alternative education under s.19 Education Act 1996 following exclusion from Marden Bridge Middle School (MBMS) on 6 February 2018;
- 3) Lack of recognition of the array of hardships to the family, including the stress of having to bring the complaint.

The Committee upheld the complaint and made six conclusions:

- 1) The case highlighted issues with communication and a lack of clarity over responsibility of roles between schools, parents and the Local Authority when

assessing the SEN of pupils and the triggering of the statutory process and that this needed to be addressed;

- 2) The Local Authority needed to ensure that parents were kept informed and supported throughout the process;
- 3) From the notes of the February TAF meeting, it was clear why the complainant understood the statutory process should have begun at that time and improved communication between the school and the Local Authority, and a more proactive approach, could have resulted in the EHCP being put in place sooner;
- 4) The Local Authority needed to be clear on when a statutory process was triggered and that procedures complied with legislation;
- 5) The delay in finalising the EHCP was unacceptable;
- 6) The complainant's son had experienced an extended period of disruption to his education, which impacted on the complainant's ability to work and placed emotional strain on the family.

The Committee made two recommendations:

- 1) That a full review take place of all processes related to beginning and developing EHCP's, to include ensuring that legislation is being correctly applied, that correspondence with parents is clear and demonstrates an understanding of the difficult time for parents and that communication between schools and the Local Authority is strengthened. It is recommended that this review be completed by the end of October 2018 and that the outcomes of this review be reported to a future Regulation and Review Committee; and
- 2) That consideration be given to offering payments to the family of £1,000 for the delay, stress and emotional impact that the process and bringing the complaint has caused and a further £2,000 for the months in which the complainant's son was not in school nor receiving suitable alternative education (based on £500 per month for 4 months), for the disruption to his education and the restrictions this placed on the complainant's ability to work.

The complainant proceeded to take her complaint to the Local Government and Social Care Ombudsman who found maladministration causing injustice. The Ombudsmen ordered the Authority to:

- 1) To apologise to the child and his parents to recognise the injustice caused to them by the additional faults identified.
- 2) To pay a further £3,000 to the child, in addition to the £2,000 it has already paid. This recommendation is based on: £400 per month for eight months between July 2017 and March 2018, where child would have received suitable provision in school had the Council finalised his EHC plan within the statutory timescales; and £600 per month for three months, from March to June 2018, where the child did not receive EHC provision and, in addition, was out of school without a suitable alternative education.
- 3) To pay a further £1,000 to the complainant. The panel's recommendation recognised they had experienced distress, however it did not fully recognise the extent of this.
- 4) To issue a staff reminder to ensure its officers are aware of its duty to begin the EHC process when it becomes "*responsible for*" a child. It will explain in the reminder what this means in practice for its officers.

#### **1.4 Appendices**

There were no appendices.



## **1.5 Contact officers**

Jacqui Old  
Emma Rothery

## **1.6 Background information**

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- North Tyneside Council Constitution
- Minutes of Regulation and Review Committee

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# North Tyneside Council Report to Regulation and Review Committee Date: 24 October 2019

Report from Service

Area:

Law and Governance

Responsible Officer:

Bryn Roberts, Head of Law and Governance

(Tel: 0191 643  
5339)

Wards affected:

All

## PART 1

### 1.1 Executive Summary:

The Cabinet at its meeting on 25 November 2019 will consider an updated Covert Surveillance Policy. In accordance with the Codes of Practice applying to the Regulation of Investigatory Powers Act 2000 (RIPA) the Authority's Policy is subject to annual review. A copy of the draft Policy for 2020 is attached at Appendix 1. Regulation and Review Committee are requested to consider the revised draft policy and to recommend the Policy to Cabinet for their consideration at their meeting on 25 November 2019.

### 1.2 Recommendation(s):

It is recommended that the Committee:

1. note the Authority's draft Policy on Covert Surveillance (attached at Appendix 1); and
2. recommend the proposed Policy to Cabinet for adoption at its meeting on 25 November 2019.

### 1.3 Information:

#### 1.3.1 Introduction

The Authority's current Surveillance Policy was approved by Cabinet in November 2018 and is subject to annual review. The Policy has been subject to a review and the revised draft policy is attached at Appendix 1. No amendments are proposed (save for minor typographical corrections) to the draft Policy as the previously adopted Policy remains fit for purpose.

The aims of the Authority's Policy are to:

- Set out the Authority's arrangements for complying with RIPA; the relevant Codes of Practice and guidance issued by the Home Office; and guidance from the Investigatory Powers Commissioner's Office (IPCO);

- Give effect to the rights of citizens to respect for their private and family lives (pursuant to the Human Rights Act 1998); and
- Protect the Authority from legal challenge when undertaking surveillance.

### 1.3.2 The RIPA Shield

The Regulation of Investigatory Powers Act 2000 (RIPA) puts covert surveillance on a statutory basis. RIPA enables certain public authorities, including this Authority, to carry out surveillance operations with statutory protection from legal challenge. It is often referred to as the “RIPA shield”.

Three covert investigatory techniques are available to local authorities under RIPA:

- i. the acquisition and disclosure of communications data such as telephone billing information or subscriber details e.g. to tackle rogue traders;
- ii. directed surveillance - covert surveillance of individuals in public places e.g. to tackle criminal activity arising from anti-social behaviour; and
- iii. covert human intelligence sources (CHIS) such as the deployment of undercover officers.

The RIPA provisions may only be used to authorise surveillance activities in order to detect and prevent serious crime and any authorisation is subject to a requirement to seek authorisation from an ‘Authorising Officer’ and to obtaining judicial approval from the Magistrates’ Court before any surveillance is undertaken. The Authorising Officers within the Authority are:

Paul Hanson – Chief Executive; and  
Colin MacDonald – Senior Manager, Technical & Regulatory Services

Officers from Law and Governance accompanied by the relevant Authorising Officer will present any authorisation to the Magistrates’ Court for judicial approval. All authorisations will be subject to an internal scrutiny process prior to being submitted for such approval.

Local authorities may undertake surveillance for other purposes but such surveillance will not benefit from the RIPA shield and will leave a local authority vulnerable to challenge. For this reason all surveillance activity undertaken by the Authority, whether within the RIPA regime or not, must be appropriately authorised by one of the Authorising Officers and is subject to central monitoring and challenge.

### 1.3.3 Central Register

The Authority has a Central Register of all RIPA and non-RIPA surveillance activity. The Central Register is maintained and monitored by Law and Governance.

### 1.3.4 Inspection

Organisations using RIPA are subject to regular inspection by Investigatory Powers Commissioner’s Office (IPCO). On 1 September 2017, the Office of Surveillance Commissioners (OSC) and the Interception of Communications Commissioner’s Office (IOCCO) were abolished by the Investigatory Powers Act 2016. The IPCO is now responsible for the judicial oversight of the use of covert surveillance by public authorities throughout the United Kingdom.

The Authority received an inspection visit from the OSC in June 2017 prior to its abolition. The purpose of the OSC inspection was to examine the policies, procedures, operations and administration the Authority has in place in relation to directed surveillance and covert human intelligence sources.

The outcome of the inspection was very supportive of the Authority's actions to manage its responsibilities under RIPA.

The Committee are requested to review the draft Policy and recommend to Cabinet that the Policy be adopted.

#### 1.3.5 Summary of Use of Surveillance, Acquisition of Communications Data and CHIS

It should be noted that following the changes to the RIPA regime from 1 November 2012 reported to the Committee in October 2012, there have been no authorisations of any kind granted. The ground most commonly used for authorising covert surveillance addressing anti-social behaviour was removed on 31 October 2012. Authorisations may now only be sought on the grounds that it relates to the prevention and detection of serious crime. Serious crime is defined as crime punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

Law and Governance keeps the Central Record of authorisations under review and advises Authorising Officers/Designated Persons of changes in approach or procedure.

#### 1.3.6 Corporate Responsibilities

The Codes of Practice advise that a Senior Responsible Officer (SRO) should be identified to ensure the Authority has appropriate policies and processes that accord with RIPA and the related Codes of Practice.

The Officer Delegation Scheme places the Senior Responsible Officer role with the Head of Law and Governance.

Each Head of Service is responsible for ensuring effective and legally compliant systems and procedures are in place for surveillance work within their Service Areas.

All employees connected with surveillance and handling of evidence are responsible for ensuring that they act only in accordance with their level of responsibility and training and in accordance with the Policy and associated documents. To assist in this an 'Employee Handbook: Use of Covert Surveillance, Covert Human Intelligence Sources and Communications Data', has been prepared. The Handbook provides key information for Officers and directs them towards key sources of detailed guidance. It is kept under review and revised as necessary to ensure it reflects current procedures and best practice.

If Officers wish to undertake surveillance that falls outside of the RIPA regime they must take legal advice and seek appropriate authorisation. Information regarding surveillance (whether under RIPA or not) must be held centrally by the Senior Responsible Officer to enable the Authority to have an overview of all surveillance activities being undertaken by the Authority.

## Use of Social Media for the collection personal information

The application of the requirements of RIPA to the use of informants via, in particular, social media is a developing area of surveillance law. Social Media provides the opportunity for the Authority to monitor for example individual rogue traders who trade on-line in the context of trading standards investigations. The continued monitoring of the activities of an individual or the development of a relationship with a trader with the purpose eliciting information from the trader may fall within the RIPA regime.

As stated above this is an area which is continuing to be monitored as it develops and Officers from Law and Governance and Trading Standards are considering how such activities should actually be undertaken and whether those activities go as far as requiring a RIPA authorisation.

The most recent Office of Surveillance Commissioners' Guidance did provide some limited guidance on this matter and refers to the implications of interference through such activities with an individual's rights to a private and family life under Article 8 of the Human Rights Act 1998.

In addition the Authority may undertake such surveillance for activities that could not benefit from the protection of the RIPA shield i.e. the activity being investigated would not meet the serious crime test for example in child protection. Such surveillance may simple be the monitoring of entries on social media (e.g. Facebook) for calling, for example, beach parties or where concerns about breaches of the social media policy may arise. In these circumstances whilst the surveillance is not unlawful it leaves a local authority more vulnerable to challenge as it still entails the collection information about an individual. For this reason the Authority requires that all surveillance activity undertaken by the Authority outside of the RIPA regime must be appropriately authorised by one of the Authorising Officers and is subject to central monitoring.

Further information has been provided to Heads of Service to raise awareness of RIPA, the circumstances when a RIPA authorisation is necessary and those circumstances where surveillance activity outside of the RIPA regime must still be appropriately authorised

### 1.3.7 Compliance and Oversight

The Codes of Practice indicate that elected members of a local authority should review its use of RIPA and set the general surveillance policy at least annually. A local authority should also consider internal reports on the use of RIPA at least quarterly to ensure that it is being used consistently in compliance with the Authority's Policy and that the Policy remains fit for purpose. It has not been possible to give quarterly reports on the use RIPA since 1 November 2012 as no authorisations have been granted. It was agreed by the Committee in 2015 that the use of RIPA should be reported to the Committee on an exception basis. Therefore when an authorisation is granted it will be reported the next available meeting of the Committee to ensure the requirements for member oversight of the use of the Authority's RIPA powers are discharged.

To meet these requirements the Policy Statement provides that:

- Cabinet receives an annual report covering the Authority's use of RIPA powers, and review of the Policy for the following year;

- Reports are presented to the Regulation and Review Committee on the Authority's use of RIPA powers. The Committee's role is to look at compliance, oversight and use of RIPA. The Committee will also consider whether the Policy remains fit for purpose and recommend changes to the Policy as appropriate for Cabinet's consideration; and
- The Elected Mayor who has responsibility for RIPA related activities receives regular updates from the Senior Responsible Officer regarding the use of the Authority's powers.

#### 1.3.8 Closed Circuit Television (CCTV) Systems

North Tyneside Council's CCTV control room operates cameras throughout the Borough. Overt surveillance as conducted through the use of CCTV is covered by the Data Protection Act 1998 and not by RIPA. Signage is in place informing the public when they enter zones covered by CCTV equipment. The Council's CCTV control room is registered with the Surveillance Camera on Commissioner under the Data Protection Act 1988.

If the CCTV cameras are used for covert surveillance (whether by the Authority or the Police), a RIPA authorisation is required. The Police may make formal written requests for surveillance of a target for which they have a RIPA authorisation. The CCTV Control Room Co-ordinator will seek written confirmation of this authorisation.

#### 1.4 **Appendices:**

Appendix 1: Policy on Covert Surveillance (draft)

#### 1.5 **Contact officers:**

Stephen Ballantyne, Legal Manager – Governance and Employment (0191 643 5329)

#### 1.6 **Background information:**

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- Regulation of Investigatory Powers Act 2000 and relevant Orders
- Home Office Code of Practice

### **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

#### 2.1 **Finance and other resources**

The provisions of the Policy can be implemented within the Service's existing resources.

#### 2.2 **Legal**

The Policy has been prepared with reference to the relevant law and Codes of Practice. A number of Statutory Instruments and Codes of Practice published by the Home Office that govern the operation of RIPA.

The Authority may only authorise directed surveillance where it is both necessary and proportionate to the investigation or operation being undertaken and to what is being sought to achieve in terms of evidence gathering. Senior Officers are appointed as

Authorising Officers and have a key role in carefully scrutinising all applications for the use of RIPA powers under a specific authorisation. Judicial approval is required from the Magistrates' Court in relation to all authorisations prior to any surveillance being undertaken.

Authorising Officers must ensure that authorisations are granted only in appropriate cases and that the extent of all authorisations are clearly set out.

The Authority cannot authorise intrusive surveillance under RIPA. Intrusive surveillance would involve placing an investigator on residential premises or in a private vehicle or allowing the use of an external surveillance device outside of the premises or vehicle that gives the same quality of information as if it was on the premises or in the vehicle.

The Policy, together with the Employee Handbook covers the procedures to be followed in seeking authorisations, maintaining appropriate oversight of the Policy and the central record of decisions.

### **2.3 Consultation/community engagement**

The Policy is aimed at ensuring adherence to the best practice contained within the Codes of Practice as well as the law.

Internal consultation has taken place with officers with responsibility for the management and supervision of surveillance activity as well as with the Elected Mayor.

### **2.4 Human rights**

Human rights implications are addressed within the report and the Policy. RIPA provides a framework under which surveillance activity can be authorised and conducted in a way that is compatible with the rights of individuals.

The Authority must also ensure that activity that falls outside of the RIPA regime is subject to careful scrutiny and authorisation to ensure that human rights are respected and the activity is lawfully undertaken.

### **2.5 Equalities and diversity**

There are no equalities and diversity implications directly arising from the report.

### **2.6 Risk management**

The Authority's Policy and the procedures contained in the Employee Handbook are designed to ensure the Authority complies with the law and Codes of Practice and thereby reduce the risks associated with surveillance activity.

### **2.7 Crime and disorder**

RIPA may only be utilised by the Authority for the purposes of detecting and preventing crime.

### **2.8 Environment and sustainability**

There are no environment and sustainability implications directly arising from this report.



(November ~~December~~ 20189)



**North Tyneside Council**

## **Covert Surveillance Policy**

**(Regulation of Investigatory Powers Act 2000) (RIPA)**

## 1. INTRODUCTION

This is North Tyneside Council's Covert Surveillance Policy document. It sets out the adopted approach of the Authority to ensure that any surveillance activity undertaken by the Authority is conducted in a way that is compatible with the human rights of individuals, in particular the right to respect for private and family life (in accordance with Article 8 of the European Convention on Human Rights).

The aim of the Policy is to:

- Explain the Authority's arrangements for authorising surveillance activity;
- Direct Officers to the key sources of guidance to ensure compliance with the Policy;
- Give effect to the rights of citizens to respect for their private and family lives (pursuant to the Human Rights Act 1998);
- Protect the Authority from legal challenge when undertaking surveillance; and
- Assist the Authority in complying with the Codes of Practice, Regulations and Orders issued under the Regulation of Investigatory Powers Act 2000 (RIPA) and to meet the requirements of the Inspectors from the Investigatory Powers Commissioner's Office (IPCO).

## 2. POLICY STATEMENT

The Authority agrees that as a matter of policy:

- The Authority is committed to complying with:
  - (a) the Regulation of Investigatory Powers Act 2000 (RIPA) and the Codes of Practice issued under RIPA by the Home Office; and
  - (b) guidance supplied by the Investigatory Powers Commissioner's Office (IPCO);
- Surveillance that falls outside of the RIPA regime will be subject to the Non-RIPA authorisation procedure and central monitoring to ensure:
  - (a) the Authority has an overview of all surveillance activity it undertakes; and
  - (b) such activity is appropriately scrutinised; and
  - (c) the rights of individuals are appropriately safeguarded.
- Relevant Officers shall receive sufficient training and guidance so as to reasonably ensure such compliance;
- Any Officer shall, if in any doubt about whether the legislation applies in a particular case or how to comply with it, seek guidance from an Authorising Officer and/or the Head of Law and Governance.

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## 3. REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework under which covert surveillance activity can be authorised and conducted in a way that is compatible with the rights of individuals. Where RIPA is complied with it provides statutory protection from legal challenge to the local authority and for this reason it is often referred to as the "RIPA shield".

Three covert investigatory techniques are available to local authorities under RIPA:

- i. directed surveillance – covert surveillance of individuals in public places e.g. to tackle criminal activity;
- ii. covert human intelligence sources (CHIS) such as the deployment of undercover officers; and
- iii. the acquisition and disclosure of communications data such as telephone billing

information or subscriber details e.g. to tackle rogue traders.

The Authority will use RIPA authorised surveillance where appropriate in order to detect and prevent crime. Authorisation will only be given where the proposed surveillance is both necessary and proportionate.

The Protection of Freedoms Act 2012 requires local authorities to obtain the prior approval of a Justice of the Peace before the use of any one of the three covert investigatory techniques available as detailed above. An approval is also required if an authorisation to use such techniques is being renewed.

In each case, the role of the Justice of the Peace is to ensure that the correct procedures have been followed and the relevant factors have been taken into account. Approval can only be given if the Justice of the Peace is satisfied that:

- a) There were reasonable grounds for the Authority's Authorising Officer approving the application to believe that the Directed Surveillance or deployment of a CHIS was necessary and proportionate and that there remain reasonable grounds for believing so;
- b) The Authorising Officer was of the correct seniority within the organisation i.e. a Head of Service, Service Manager or equivalent in accordance with the relevant Regulations;
- c) The granting of the authorisation was for the prescribed purpose of preventing or detecting crime and satisfies the Serious Offence Test for Directed Surveillance (see below); and
- d) Any other conditions set out in any order under Part 2 of RIPA are satisfied (there are none at present).

In addition to the above, where the authorisation is for the deployment of a CHIS, the Justice of the Peace must be satisfied that:

- a) the local authority can ensure that there are officers in place to carry out roles relating to the handling and management of the CHIS as well as the keeping of records;
- b) Where the CHIS is under 16 or 18 years of age, the necessary requirements in relation parental consent, meetings, risk assessments and the duration of the authorisation have been satisfied. Note that the authorisation of such persons to act as a CHIS must come from the Head of Paid Service.
- c) Where the application is for the renewal of a CHIS authorisation, a review has been carried out by the local authority and the Justice of the Peace has considered the results of the review.

The provisions in relation to judicial approval make it clear that the Authorising Officer is not required to apply in person and there is no need to give notice to either the subject of the authorisation or their legal representatives. This reflects the covert nature of the exercise of the investigatory powers under RIPA. The Authority would be represented in any application to a Justice of the Peace by the Authority's Legal Service and the Authorising Officer.

There is no requirement for a Justice of the Peace to consider either cancellations or internal reviews of authorisations.

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At all times the risk of obtaining private information about persons who are not subjects of the surveillance must be considered (collateral intrusion) and steps must be taken to avoid or minimise it.

Examples of investigations where it is envisaged that covert techniques may be utilised to enable local authorities to gather evidence and offer evidence in legal proceedings include:

- Trading Standards e.g. action against loan sharks and rogue traders, car fraud, consumer scams, deceptive advertising, counterfeit goods, unsafe toys and electrical goods; and
- Environmental protection e.g. action to stop large scale waste dumping, the sale of unfit food etc.

#### Serious Offence Test

Local authorities may only use the RIPA provisions to authorise surveillance activities in order to detect and prevent crime as defined by the Regulations. In particular the crime which is sought to be prevented or detected by the surveillance activity must be punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

#### **4. NECESSARY AND PROPORTIONATE**

The Authority may only authorise directed surveillance, CHIS or the acquisition of communications data where it is both necessary and proportionate to what it seeks to achieve. Senior Offices are appointed as Authorising Officers (or Designated Persons for communications data purposes) and have a key role to play in carefully scrutinising all applications. Authorising Officers/Designated Persons must ensure that authorisations are granted only in appropriate cases and that the extent of all authorisations are clearly set out.

#### **5. COLLATERAL INTRUSION**

Collateral intrusion is obtaining private information about persons who are not subjects of the surveillance. The risk of collateral intrusion must be considered and measures should be taken to avoid or minimise it.

#### **6. NON-RIPA SURVEILLANCE**

Surveillance activity which falls outside of RIPA, for example, monitoring of employees, does not benefit from the RIPA shield. When operating outside of the RIPA regime there is a greater risk of breaching an individual's rights or being successfully challenged.

The Authority via its Senior Responsible Officer retains a central register of Non-RIPA surveillance activity. Officers are required to take great care to appropriately record, authorise, monitor and scrutinise such activity.

The principles of proportionality and necessity and the requirement to avoid or minimise collateral intrusion also apply to Non-RIPA surveillance.

## **7. CLOSED CIRCUIT TELEVISION (CCTV) SYSTEMS**

Overt surveillance via CCTV is covered by the Data Protection Act 2018 and not by RIPA. CCTV is subject to the Surveillance Camera Code of Practice under the Data Protection Act, which is overseen by the Surveillance Camera Commissioner.

Signage must be in place to inform the public when they enter zones covered by CCTV equipment.

A central record of all CCTV in buildings operated by the Authority is held by the Senior Responsible Officer.

If CCTV cameras are used for covert surveillance (whether by the Authority or the Police), a RIPA authorisation is required.

North Tyneside Council's CCTV control room operates cameras throughout the North Tyneside area. The Police may make formal written requests for surveillance of a target for which they have a RIPA authorisation. Confirmation by sight of this authorisation will be sought and a copy will be retained (redacted as appropriate) by the CCTV Control Room Co-Ordinator.

Employees using CCTV covertly must be aware of the possibility of collateral intrusion (invading the privacy of people other than the target) and take steps to avoid or minimise it.

The Protection of Freedoms Act 2012 makes provision for the further regulation of surveillance camera systems. These are defined as Closed Circuit Television (CCTV), Automatic Number Plate Recognition (ANPR) and other surveillance camera technology.

The Surveillance Camera Code of Practice also includes guidance in relation to the development or use of such systems, and the use and processing of information derived from them. The Code of Practice includes provisions about:

- considerations as to whether to use surveillance camera systems;
- types of systems or apparatus
- technical standards for systems or apparatus
- locations for systems or apparatus
- the publication of information about systems or apparatus
- standards applicable to persons using or maintaining systems or apparatus
- standards applicable to persons using or processing information obtained by virtue of systems
- access to, or disclosure of, information so obtained
- procedures for complaints or consultation

The Authority must have regard to the Code if they operate or intend to operate any surveillance camera systems covered by the Code.

Failure to adhere to the Code will not in itself render an organisation liable to legal proceedings, but the Code is admissible in civil or criminal proceedings. The Code could also be enforced by way of judicial review in the High Court.

The CCTV provisions in the Protection of Freedoms Act 2012 add a completely new layer of control over the use of CCTV by local authorities.

## 8. CORPORATE RESPONSIBILITIES

The Authority's Senior Responsible Officer (currently the Head of Law and Governance) has overall responsibility for RIPA.

The Senior Responsible Officer appoints Authorising Officers and Designated Persons. A list of Authorising Officers/Designated Persons is held with the Central Record. This list may change as required. Only Authorised Officers named in the list may authorise covert surveillance activities under RIPA. Only Designated Persons named in the list may authorise the acquisition of communications data. The Senior Responsible Officer may remove an Officer from the list where they consider it is appropriate to do so.

In particular, the Senior Responsible Officer ensures that:

- Only Officers who have received appropriate training on RIPA are permitted to become Authorising Officers/Designated Persons.
- Refresher training is provided as required and training records are maintained.
- Monitoring arrangements are in place in each Service to ensure that the Authority is meeting its obligations under RIPA, the Codes of Practice, and this Policy.
- Reviews of authorisation documentation take place to ensure that they are completed in accordance with the requirements of RIPA, the Codes of Practice and Authority guidance. Appropriate feedback is given to officers to ensure high standards are encouraged and maintained.
- The Central Record is maintained in accordance with the requirements of the Codes of Practice and Authority guidance.
- An up-to-date copy of this Policy and associated guidance is available to all relevant employees.
- An annual review of this Policy is undertaken and presented to Cabinet for approval, in addition to provision of monitoring information.

The RIPA Co-ordinating Officer (currently the Legal Manager – Governance and Employment) supports the Senior Responsible Officer in relation to the discharge of that role. The RIPA Co-ordinating Officer also monitors all authorisations and provides robust challenge to authorisations to ensure they meet the requirements of the law and this Policy.

Each Head of Service is responsible for ensuring effective and legally compliant systems and procedures are in place for surveillance work within their Service Areas in respect of any surveillance activity whether undertaken within or outside of the RIPA provisions.

The Senior Responsible Officer is also responsible for ensuring that:

- Relevant officers receive appropriate training on RIPA before undertaking investigations that include (or may include) Directed Surveillance, the use of a CHIS or the acquisition or disclosure of communications data.
- Refresher training is provided as required and training records are maintained and supplied to the Senior Responsible Officer.
- Authorisations are approved, reviewed, renewed, and cancelled by the Authorising Officer/Designated Person as necessary, and such actions are reported to the Senior Responsible Officer.
- Records and evidence obtained as a result of surveillance/investigation are kept and destroyed in accordance with Authority Policy.

All employees connected with surveillance and handling evidence are responsible for ensuring that they act only in accordance with their level of responsibility and training and in accordance with this Policy and associated documents.

## **9. GUIDANCE**

The Authority's intranet has a surveillance page containing the key guidance documents, including this Policy, the Employee Handbook, the relevant Codes of Practice, a guide to completing RIPA forms and a link to the Home Office RIPA forms.

The Authority has prepared the 'Employee Handbook: Use of Covert Surveillance & Covert Human Intelligence Sources & Communications Data (Regulation of Investigatory Powers Act 2000 (RIPA))' to provide guidance to Authority Officers regarding the use of RIPA and the procedures that must be followed.

The Employee Handbook may be revised by the Senior Responsible Officer during the year to reflect changes in procedures or best practice.

All Authority Officers who may authorise or undertake surveillance work must read the Handbook and follow the procedures within it.

Authority Officers are encouraged to seek guidance on the procedures from the Authorising Officers/Designated Persons and the Senior Responsible Officer.

If Officers wish to undertake surveillance which falls outside of the RIPA regime they must seek appropriate authorisation. This is covered in the Employee Handbook. Information regarding surveillance (whether under RIPA or not) must be held centrally by the Senior Responsible Officer to enable the Authority to have an overview of all surveillance activities being undertaken.

## **10. COMPLIANCE AND OVERSIGHT**

The Senior Responsible Officer will assess compliance with this policy and associated guidance. The Senior Responsible Officer may seek support from Internal Audit as appropriate.

A random sample of authorisations will be checked monthly by the Senior Responsible Officer and on receipt by the RIPA Co-Ordinating Officer and any incorrect or incomplete authorisations will be reported to the relevant Authorising Officer and Head of Service. In addition to the sample checks the Senior Responsible Officer will provide feedback and guidance to Officers as needed throughout the year.

Elected Members have a key role in setting policy and overseeing the use of RIPA within the Authority. Members do not make investigatory/enforcement casework decisions in relation to specific authorisations.

The Elected Mayor is designated to champion compliance with RIPA within the Authority processes. The Elected Mayor receives regular updates from the Senior Responsible Officer regarding the use of the Authority's powers.

The Senior Responsible Officer presents reports to Regulation & Review Committee at least annually on the Authority's use of the powers but will also usually report the use of RIPA to the next available committee meeting. The Committee looks at compliance, oversight and use of

RIPA. The Committee considers whether the policy remains fit for purpose and will recommend changes where appropriate for Cabinet's consideration.

Cabinet will receive an annual report upon the Authority's use of the powers and will set the policy for the following year.

The Authority has designated a Cabinet Member (currently the Elected Mayor) and a Senior Responsible Officer (currently the Head of Law and Governance) to champion and oversee compliance with this Policy and associated procedures. Each Head of Service is responsible for ensuring compliance with RIPA in their service area.

Cabinet will review the RIPA policy and the Authority's use of RIPA on an annual basis.

## **11. REVIEW OF THIS POLICY**

The Senior Responsible Officer will review this policy and associated controls as follows:

- Annually.
- Following legislative changes.
- Following any recommendations received as a result of inspections and reviews undertaken by the Investigatory Powers Commissioner's Office.
- Following any major breach in compliance.

## **12. RECORD KEEPING**

Authorising Officers must send the originals of all applications, reviews, renewals and cancellations to the Senior Responsible Officer for filing with the Central Record. In light of the confidential nature of the data original documents should be hand delivered and must be stored securely. Documentation must not be altered in any way following its completion. If any clarification is needed regarding the content of a document this must be done via a separate document which must be signed and dated.

All documentation received as a result of an authorisation must be handled and stored securely and in line with data protection principles.

## **13. DESTRUCTION OF MATERIAL**

Any material obtained during covert surveillance that is wholly unrelated to the operation and where there is no reason to believe that it will be relevant to future civil or criminal proceedings will be destroyed immediately.

In North Tyneside Council the retention period for the central record and associated material is six years from the end of each authorisation or the conclusion of connected court proceedings (whichever date is last).

Where the retention period has expired, the authorisation and any other material obtained or created during the course of the covert surveillance under the unique reference number will be destroyed.

The Authorising Officer/Designated Person will be responsible for ensuring that all material held in the department relating to the unique reference number is destroyed.



The Authorising Officer/Designated Person will notify the Senior Responsible Officer that the retention period has expired, giving the unique reference number and authorise destruction of the material held in the Central Record of Authorisations.

All material to be destroyed will be treated as confidential waste.

Officers should also refer to the Authority's Record Retention Guidelines before destroying any document or evidence obtained under RIPA.

Further guidance on record keeping is available in the Codes of Practice.

#### **14. TRAINING**

The Senior Responsible Officer will train the senior managers responsible for overseeing and monitoring RIPA activities, all other employees involved in RIPA activities, and ensure that they understand this Policy.

The Senior Responsible Officer will keep a record of the training undertaken by employees.

#### **15. CODES OF PRACTICE & RELATED AUTHORITY DOCUMENTS**

The following Codes of Practice have been issued by the Home Office:

1. Code of Practice - Covert Surveillance and Property Interference
2. Code of Practice - Covert Human Intelligence Sources
3. Code of Practice - Acquisition and Disclosure of Communications Data

All employees involved in surveillance activities must have regard to and act in accordance with:

- the Codes of Practice;
- the Employee Handbook: Use of Covert Surveillance & Covert Human Intelligence Sources & Communications Data (Regulation of Investigatory Powers Act 2000) (RIPA); and
- instruction and guidance from Authorising Officers/Designated Persons and the Senior Responsible Officer.

The Employee Handbook includes appendices providing detailed guidance to assist in the completion of RIPA forms.

#### **16. MISCONDUCT**

All employees involved in RIPA activities will comply with this Policy. Failure to comply with this Policy may be dealt with as misconduct or gross misconduct under the disciplinary procedures depending upon all of the circumstances of the case.

#### **17. COMPLAINTS**

Any complaint made to the Authority will be dealt with in accordance with the corporate complaints procedure.

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