

Public Document Pack

Date of meeting Monday, 20th April, 2015
Time 7.00 pm
Venue Training Room 1 - Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Geoff Durham

Public Protection Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Guidance Notes (for information) (Pages 3 - 18)**
- 2 DECLARATIONS OF INTEREST**
To receive declarations of interest from Members on items included in this agenda.
- 3 DISCLOSURE OF EXEMPT INFORMATION**
To resolve that the public be excluded from the meeting during consideration of the attached report, because it is likely that there will be disclosure of exempt information as defined in paragraphs 1, 2 and 7 in Part 1 of Schedule 12A of the Local Government Act 1972.
- 4 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 19 - 26)
1976**
Private Hire Driver – Mr DHF
- 5 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 27 - 30)
1976**
Private Hire Driver – Mr F (attachments to follow)
- 6 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 31 - 32)
1976**
Private Hire Driver – Mr AMA (attachments to follow)
- 7 Open Reports from officers**
- 8 TAXI LICENSING POLICY**
Report to follow.
- 9 WORK PLAN (Pages 33 - 34)**
To consider items to be included in the Work Plan

10 URGENT BUSINESS

To consider any business which is urgent within the meaning of Section 100(B)4 of the Local Government Act.

Members: Councillors Bailey, Mrs Braithwaite, Eastwood, Hailstones, Mrs Hailstones, Matthews, Naylor, Miss Olszewski, Proctor (Vice-Chair), Robinson (Chair), Miss Walklate, Williams and Mrs Williams

PLEASE NOTE: The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

GUIDANCE NOTES

NATURAL JUSTICE AND FAIRNESS

These are the principles used in the determination of just or fair processes and stem from the common law legal system.

According to Roman law, certain basic legal principles were so obvious that they should be applied universally without the need to be enacted into the law.

The rules of natural justice are now regularly applied by courts in both common law and civil law jurisdictions.

Natural justice operates on the principles that man is basically good, that a person of good intent should not be harmed and one should treat others as they would like to be treated.

Natural justice includes the notion of procedural fairness and may incorporate the following guidelines:-

- A person accused of a crime, or at risk of some form of loss, should be given adequate notice about the proceedings (including any charges);
- A person making a decision should declare any personal interest they may have in the proceedings;
- A person who makes a decision should be unbiased and act in good faith. He therefore cannot be one of the parties in the case, or have an interest in the outcome. This is expressed in the Latin maxim, *nemo iudex in causa sua*: “no man is permitted to be judge in his own cause”;
- Proceedings should be conducted so they are fair to all the parties – expressed in the Latin maxim, *audi alteram* : “let the other side be heard”;
- Each party to a proceeding is entitled to ask questions and contradict the evidence of the opposing party;
- A decision-maker should take into account relevant considerations and extenuating circumstances, and ignore irrelevant considerations;
- Justice should be seen to be done. If the community is satisfied that justice has been done they will continue to place their faith in the courts.

Where a person’s legal rights are concerned, the principles of natural justice are bolstered by Article 6 of the European Convention on Human Rights which is now incorporated into domestic law.

THE RULE AGAINST BIAS

It is elementary to the rules of natural justice that the deciding body is to be free from bias.

The rule is that the body must be and be seen to be impartial, independent and disinterested.

There are two broad categories of bias:

- (a) Actual Bias: when the decision-maker has an economic interest in the outcome of the case (also known as a material or pecuniary interest) subject to the De Minimum doctrine;
- (b) Reasonable Apprehension: unbiased appearance is an essential part of procedural fairness. The test is whether, having regard to the circumstances, a well informed person ("reasonably informed bystander") would consider that the interest might have an influence on the exercise of the decision-maker's duties.

GUIDANCE NOTES

HUMAN RIGHTS ACT 1998

In addition to the Rules of Natural Justice, you must also have regard to the provisions of the Human Rights Act 1998.

Rights and Freedoms to be considered when determining matters

ARTICLE 6: RIGHT TO A FAIR TRIAL

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly, but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means, to pay for legal assistance, to be given it free when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

ARTICLE 8: RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 10: FREEDOM OF EXPRESSION

1. Everyone has the right to freedom of expression. This rights shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 14: PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set fourth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

NB This is not a substantive right, but comes into play if other rights are likely to have been infringed. The prohibition is wide, but not exhaustive

ARTICLE 1: OF THE FIRST PROTOCOL PROTECTION OF PROPERTY

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

NOTE Possessions, in this context, includes the right to apply for a licence, the right to hold and retain a licence, the goodwill of a business and liquor licences.



GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS FOR APPLICANTS FOR THE GRANT AND RENEWAL OF LICENCES TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

GENERAL POLICY

1. Each case will be decided on its own merits
2. The Council will, as far as is possible, ensure that all persons holding a licence to drive Hackney Carriages or private hire vehicles are fit and proper persons. In doing so, the Council will take into account previous convictions including, where relevant, 'spent' convictions.
3. The Council will always put the protection of the public first when considering the relevance of convictions recorded against an applicant for a licence.
4. A person with a conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for an appropriate period, before an application is considered. However, remaining free of conviction for a specified period may not be sufficient to show that a person is fit and proper and additional evidence may be required.
5. There may be occasions where it is appropriate to depart from the guidelines when making a decision on an application. For example, where the offence is a one-off and there are mitigating circumstances or alternately, where there are many or continuous offences which may show a pattern of offending and unfitness.
6. The following examples give a general guide as to the action that might be taken where convictions are recorded against an applicant.

(a) Dishonesty

Members of the public using Hackney Carriages and private hire vehicles expect the driver to be honest and trustworthy. It would be easy for a dishonest driver to take advantage of the public.

For these reasons, a serious view will be taken of any conviction involving dishonesty. In general, if an application is made within the first 3 to 5 years from the date of a conviction or from the date of release from jail where a custodial sentence has been imposed, it is likely that it will be refused.

Where an application is made within the first three years since the conviction or the date of release from jail, where a custodial sentence has been

imposed, for any of the following offences, the application will normally be refused:-

- Theft
- Burglary
- Fraud
- Benefit fraud (including offences under ss11A and 112 of the Social Security Administration Act 1992)
- Blackmail
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Or similar offences to those above which may replace any of the above offences

When a period of three years from conviction or the date of release from jail, where a custodial sentence has been imposed has passed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

(b) Violence

As Hackney Carriage and private hire vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for violence. Where the commission of an offence involves loss of life, a licence will normally be refused. In other cases, a period of three to ten years free of conviction from the date of conviction or the date of release from jail, where a custodial sentence has been imposed will generally be required before an application is likely to be considered favourably. The nature and seriousness of the offence(s) will be taken into consideration.

In particular:-

- (i) An application will normally be refused where the applicant has a conviction for an offence of:-
 - Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Or similar offence or offences which replace the above offences
- (ii) An application will normally be refused for a period of five years from the date of the conviction or the date of release from jail, where a custodial sentence has been imposed if the applicant has a conviction for:-
 - Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Assault occasioning actual bodily harm which is racially aggravated

- Assault with intent to cause grievous bodily harm
- Assaulting a police officer in the execution of his duties
- Malicious wounding
- Robbery
- Racially aggravated criminal damage
- Racially aggravated fear or provocation of violence
- Racially aggravated intentional harassment, alarm or distress
- Racially aggravated harassment
- Racially aggravated putting people in fear of violence
- Riot
- Possession of an offensive weapon
- Possession of a firearm
- Violent disorder
- Or any arrestable offence involving violence (an arrestable offence is defined as an offence committed by a person of age 21 years or over and on conviction for the first offence may be sentenced to a term of imprisonment of five years or where the penalty is fixed by law)

(iii) An application will normally be refused for a period of three years from the date of conviction or the date of release from jail, where a custodial sentence has been imposed, where the applicant has a conviction for:-

- Common assault
- Racially aggravated common assault
- Assault occasioning actual bodily harm
- Affray
- Racially aggravated harassment, alarm or distress
- Resisting arrest
- Obstructing a police officer in the execution of his duty
- Criminal damage
- Any similar offence or offences which replace the above offences

(c) Drugs

An application will normally be refused if an applicant has a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the date of release from jail, where a custodial sentence has been imposed, is less than five to ten years before the date of the application. However, after five years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a fit and proper person to hold a licence will be taken into consideration.

An application will normally be refused where the application is made within three to five years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed for an offence relating to the possession of drugs. However, after a period of three years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances

of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than five years before the date of the application.

Where evidence is available that an applicant who has convictions for drug related offences has been addicted to drugs, they will have to produce evidence that shows that they have been free of drug taking for at least five years after successfully completing a drug treatment programme.

(d) Sexual and Indecency Offences

As the driver of Hackney Carriages and private hire vehicles often carry passengers who are alone, or may be vulnerable, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a licence.

Where an applicant has a conviction for a sexual offence such as indecent exposure, they will normally be refused a licence until they can show a substantial period usually between five and ten years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed before an application is made.

After a period of five years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

(e) Motoring Convictions

(i) Disqualification

Where an applicant had been disqualified from driving by the Courts for a serious traffic offence under Category 'A' of Annex (i), an application will generally be refused unless a period of five years free of conviction has passed since the return of the DVLA licence.

Where an applicant has been disqualified from driving by the Courts for a serious traffic offence under Category 'B' of Annex (i), an application will generally be refused unless a period of five years free of conviction has passed since the return of the DVLA licence unless the offence was an isolated one, in which case, a period of not less than 2 years shall have passed.

Where a disqualification is imposed by a court in a 'totting-up' case, i.e. where an applicant has been disqualified because of several

driving offences, an application will generally be refused unless a period of one year free of conviction has elapsed since the return of the DVLA driver licence.

In 'totting-up' cases where a court does not impose a disqualification because of exceptional circumstances, then because the Council apply different criteria to the courts, an application will generally be refused unless an applicant can show a period of 1 year free of conviction from the date of the last court appearance.

(ii) Serious Traffic Offences

Where an applicant has a conviction for a serious traffic offence in Category 'A' Annex (i) and a period of disqualification has not been imposed by the courts, an application will normally be refused where an application is made in the last five years following the date of the last conviction.

Where an applicant has a conviction for a serious traffic offence in Category 'B' Annex (i) and a period of disqualification has not been imposed by the courts, an application will normally be refused where an application is made in the last five years following the date of the last conviction unless the offence was an isolated one.

Where an applicant has had more than one conviction for a serious traffic offence in either Category 'A' or 'B' of Annex (i) and the courts have not imposed a period of disqualification, an application will normally be refused where an application is made in five years following the date of the last conviction.

(iii) Other Traffic Offences

Normally, isolated convictions for other traffic offences should not prevent someone obtaining a licence. However, the number, type and the frequency of these types of offence will be taken into account. If there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the six months before an application is made.

A list of relevant offences is shown at Annex (ii). However, this is not an exhaustive list and there may be other offences which may be relevant.

(f) **Offences Under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Hackney Carriage Byelaws (The Acts)**

One of the main purposes of the licensing regime set out in 'The Acts' is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under the legislation, particularly offences of illegal plying for hire, when deciding if a person is a fit and proper person to hold a licence.

In particular, an application will normally be refused where an applicant has more than one conviction for an offence under 'The Acts' in the two years preceding the date of the application.

(g) Drunkenness

(i) In a Motor Vehicle

The manner in which drunkenness in a motor vehicle will be dealt with is outlined in Motoring Offences at paragraph 'e' of these guidelines.

(ii) Not in a Motor Vehicle

Where an applicant has an isolated conviction for drunkenness, this need not stop an applicant from getting a licence. In some cases, a warning may be appropriate. However, where an applicant has a number of convictions for drunkenness, it could indicate a medical problem, which would require further investigation including a medical examination and the possible refusal of a licence.

(h) Spent Convictions

The Council will only take 'Spent Convictions' into consideration if it is considered they are relevant to the application.

(i) Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

SERIOUS TRAFFIC OFFENCES

CATEGORY 'A'	
Offence Code	Offence
Careless Driving	
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for analysis
Reckless/Dangerous Driving	
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
Miscellaneous Offences	
MS50	Motor racing on a highway
Theft and Unauthorised Taking	
UT50	Aggravated taking of a vehicle

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

CATEGORY 'B'	
Offence Code	Offence
Accident Offences	
AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours
BA10	Driving whilst disqualified by order of the court
BA30	Attempting to drive whilst disqualified by order of the court
Careless Driving	
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
Construction and Use Offences	
CU10	Using a vehicle with defective brakes
CU20	Causing or likely to cause danger by use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
Drink or Drugs	
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive when unfit through drugs
DR70	Failing to provide a specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle while unfit through drugs
Insurance Offences	
IN10	Using a vehicle uninsured against third party risks
Licence Offences	
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle after having failed to notify a disability
Miscellaneous Offences	
MS70	Driving with uncorrected defective eyesight

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

If any of the offences in **Category 'B'** involve a licensed Hackney Carriage or private hire vehicle, they will be treated as though they are a **Category 'A'** offence.

OTHER TRAFFIC OFFENCES

Offence Code	Offence
LC20	Driving otherwise than in accordance with a licence
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS60	Offences not covered by other codes
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with a moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with a stationery vehicle
SP10	Exceeding goods vehicle speed limits
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with 'stop' sign
TS40	Failing to comply with direction of a constable/warden
TS50	Failing to comply with traffic sign (excluding stop signs, traffic lights or double white lines)
TS60	Failing to comply with a school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

If any of the offences in **Category 'B'** involve a licensed Hackney Carriage or private hire vehicle, they will be treated as though they are a **Category 'B'** offence under Annex (ii).

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- REPORT TITLE** Draft Taxi Licensing Policy for Newcastle under Lyme
- Submitted by:** Head of Business Improvements, Central Services and Partnerships
- Portfolio:** Safer Communities
- Ward(s) affected:** All

Purpose

To request that the Committee consider the Revised Taxi Licensing Policy for Newcastle under Lyme and that the revised Policy be implemented from 1st May 2015.

Recommendation

- a) **That the Committee Consider the responses received to the consultation**
- b) **That the final Taxi Licensing Policy for Newcastle under Lyme be implemented from 1st May 2015.**
- c) **That any Hackney Carriage and Private Hire licences issued to vehicles over 8 years of age will have until 31st June 2015 to meet any “exceptional condition” standards that may be contained in the final Taxi Licensing Policy.**
- d) **That where a vehicle fails to meet the ‘exceptional circumstances’ conditions, the licence will be deemed expired and a refund made as set out in the report.**

1. **Background**

- 1.1 As agreed at the previous meeting of this Committee the Draft Taxi Licensing Policy for Newcastle under Lyme has now been out for a further 4 week consultation period. This additional consultation ended on Friday 17th April 2015.

The following responses have now been received:

- a) Response from Brighter Futures requesting that Drivers complete adult and child protection training.
- b) Response from Community Safety and the Partnerships Manager relating to issues around child sexual exploitation and safeguarding.
- c) Response from Chief Inspector Clare Riley relating to safeguarding.
- d) Response from the Newcastle Taxi Association in relation to the testing schedule for vehicles over 8 years of age.
- e) Response from the Council's enforcement team regarding the identification of taxis and signage.
- f) Response from Mr G Johnson regarding the proposed exceptional age conditions procedure.

- g) 61 responses from drivers (as all of the responses are similar just one paper copy is attached for your information but the rest will be published on the internet).
- h) Response from Carl Phillips

2. Options

OPTION 1 - Include the below exceptional age condition in the final policy:

1. Once a vehicle has reached 8 years of age it will be required to undertake an exceptional conditions test at the Council's Knutton Lane Depot alongside the normal taxi vehicle inspection test. This will allow the vehicle to be licenced for a further 6 months
2. Undergo a further 6 monthly vehicle inspection which will allow the vehicle to continue to be licenced for the rest of the 12 month period.
3. If the Operator wishes to challenge a Council decision in relation to the Exceptional test then an independent organisation can mediate (AA or RAC).
4. It is recommended that the fee for the exceptional conditions test be £65.

It is also recommended that the necessity to pass both the exceptional test and the Council test the first time be removed and that Council Officers be given discretion regarding this element of the test should the vehicle only fail on a very minor point.

There may be other influencing factors that may assist the Council in its decision making and which could also be added to the draft Policy:

- a) The vehicle will have uniform paintwork that is lustrous and scratch free.
- b) Be free of visible rust.
- c) Have an interior that is clean and upholstery which is supportive and free of stains and free of splits and wear and tear.
- d) Be free of any unrepaired damage.
- e) Repairs that have been made will have been carried out by qualified persons and will be to the highest standard.
- f) Be free of any major mechanical faults or defects.
- g) Will have a record of being serviced at regular intervals either by a main agent or other reputable garage. Ideally this servicing will be recorded in the vehicles original service booklet.

OPTION 2 – Enforce the existing age policy in relation to private hire and hackney carriage vehicles.

Hackney Carriage Vehicles

Purpose built Hackney Carriages and those vehicles which have been converted to incorporate the standards laid down by the Public Carriage Office will continue to be relicensed despite their age subject to passing an annual test and the licences running concurrently.

The Council will use the date of the first registration shown on the vehicle's log book to determine the age of that vehicle.

Vehicles that are not purpose-built - that is saloon vehicles, estate vehicles and hatchback vehicles - will continue to be re-licensed up to eight years of age subject to passing an annual test and the licences running concurrently.

Private Hire Vehicles

When a vehicle has been licensed as a Private Hire Vehicle it is capable of being re-licensed annually until the vehicle is eight years old, providing that the licences run concurrently.

The Council will use the date of first registration shown on the vehicle's log book to determine the age of the vehicle. Where a licence is issued and the expiry date is after the eight year rule the licence will remain in place until its expiry.

In respect of mini buses, these vehicles should be less than five years of age when first tested and can continue to be licensed for as long as the vehicle continues to pass the Council's annual test, provided that the applications to renew the licence run concurrently to the expiring licence.

2. **Issues**

Representations have been received and are attached to this agenda.

3. **Options**

Having considered the responses to the consultation your officers would recommend that the Committee consider the below two options in relation to the age policy.

a) Move to adopt the Taxi Licensing Policy with either:

- i. Option 1 included (exceptional age policy) or
- ii. Option 2; enforce the existing age policy in relation to private hire and hackney carriage vehicles

4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

4.1 In formulating and proposing this Policy to Members, officers have adopted as their overriding concern the safety of the public.

- In terms of the Borough Council's corporate priorities, the draft Policy relates to the following:
 - Creating a clean, safe and sustainable Borough
 - Creating a Borough of opportunity
 - Creating a healthy and active community
 - Becoming a co-operative council which delivers high quality, community-driven services.

6. **Legal and Statutory Implications**

6.1 When considering any application for a Private Hire Vehicle Licence, the Borough Council, in accordance with Section 48 (1) (a) (i) (iii) (iv) and (v) of the Local Government (Miscellaneous Provisions) Act 1976, shall not grant such a licence unless they are satisfied that the vehicle in question is suitable in type, size and design for use as a private hire vehicle; is in a suitable mechanical condition; and is safe and comfortable.

6.2 As per Section 47 of the above Act, the Borough Council may attach to the grant of a Hackney Carriage licence such conditions as it may consider reasonably necessary. The range of conditions is wide and can therefore encompass safety, comfort and design.

6.3 The Borough Council may adopt a policy but should be clear that this is a policy which should be flexible in terms of its implementation and, therefore, should be applied to each case on its own merits.

7. **Equality Impact Assessment**

7.1 The purpose of age limits, as applied to Hackney Carriages, is to try and ensure that the licensed vehicles are safe, reliable and comfortable.

7.2 Any vehicle age policy, therefore, as applied in this area of Council business, is not arbitrary, but is a policy and it is for the Borough Council to consider any application which falls outside its own vehicle age policy on its own merits.

8. **Financial and Resource Implications**

8.1 Any vehicles over 8 years of age licenced that fail to meet any 'exceptional circumstances' criteria in the final Taxi Licensing Policy by the deadline of 31st June 2015, will be refunded the outstanding amount of the original taxi fee.

It must be noted that any refund will not be equivalent to 50% of the original fee as the majority of the licence fee covers up front administration costs and the Council depot test and these will not be included in any refund. The refund will be calculated taking into account the processes required to produce the licence, it is anticipated that the refund will be in the region of up to 20% of the original fee.

Legislation states that a district council may remit the whole or part of any fee chargeable for the grant of a licence under section 48 or 55 of this Act (The Local Government (Miscellaneous Provisions) Act 1976) in any case in which they think it appropriate to do so

8.2 An unreasonable decision may lead to awards of costs in the magistrates' court and therefore use the limited resources available to the Borough Council. A clear and reasonable policy assists in delivering efficiency

8.3 The additional cost for an exceptional vehicle test at the Council's Knutton Lane Depot will be £65.

9. **Major Risks**

9.1. Public safety should not be compromised under any circumstances, and a robust Licensing Policy assists in securing public safety.

9.2 If public safety is compromised, then there is a risk of reputational and financial damage to the Borough Council as well as possible harm to the public.

9.3 In addition, any unreasonable refusals for the grant of a licence may also lead to reputational and financial risks to the Borough Council.

10. **List of Appendices**

- a) Draft Taxi Licensing Policy for Newcastle under Lyme Borough Council
- b) Consultation Responses

11. **Background Papers**

Reforming the Law of Taxi and Private Hire Services – A Consultation Paper No. 203
Taxi and Private Hire Services – The Law Commission Paper No 347
Agenda for Public Protection Committee on 20th October 2014.

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Taxi Licensing Policy

2014—2019

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APPENDICES

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Appendix 6 - Private Hire vehicle licence conditions
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Appendix 8 - The Councils Enforcement protocol

Aims of the Policy

This policy has been developed to provide guidance and information to ensure that both the taxi trade and the public in the Borough of Newcastle under Lyme have a single document that fully explains Newcastle-under-Lyme Borough Council's licensing procedures.

The principle and overriding aim of licensing the Hackney Carriage and Private Hire trade is to protect the public. A related aim is to also regulate the trade to ensure that in offering their services, the trade are doing it in a way where the public have access to local transport which is safe, comfortable, and meets all the requirements not only of the legislation which is specific to Hackney Carriage and Private Hire but also of all other statutory and regulatory bodies concerned with motorised transport.

In addition, the Policy attempts to encompass the Council's key corporate priorities of creating a safer, greener, and sustainable Borough, and creating a Borough of opportunity.

The Policy seeks to ensure that transport for those with a disability will be provided.

Where the Council determines that specific conditions and requirements not specified in the relevant Acts of Parliament; accounted for in the Department for Transport Guidance or any other best practice guidance; are not unreasonable; and are deemed necessary to address local best practice then these will be implemented following a resolution from the Borough Council's Public Protection Committee.

The Public Protection Committee will make no decision which could adversely affect the livelihood of anyone with any licence without first having undergone a period of consultation.

Background

Hackney Carriage and Private Hire vehicles have an important role to play in any integrated public transport system. They are able to provide services in situations where other forms of public transport are either restricted, not available, or outside normal hours of operation, and assist those with mobility problems.

Policy Summary

This Policy contains information about legal requirements; government guidance; existing Borough Council policies, procedures and standards relevant to Hackney Carriage and Private Hire licensing; and should be considered to be a 'living' document (i.e. capable of change to reflect other wider environmental, social, legislative or political developments). When there are changes to guidance, legislation, or best practice then the Council will

automatically review the Policy to reflect those changes. This Policy is not exhaustive and the Council maintains the right to refuse to grant a licence if it deems it necessary to do so for reasons of public safety and public interest.

Definitions

The following terms are used throughout this document.

- 'The Council' or 'the Authority' refers to Newcastle under Lyme Borough Council, except where stated otherwise
- 'Vehicle' or 'Licensed Vehicle' refers to both a Hackney Carriage and Private Hire vehicle.
- 'Saloon type cars' refers to any vehicle not purpose built as a taxi and therefore includes hatchback and estate cars
- 'Hackney Carriage' refers to a vehicle licensed under the Town Police Clauses Act 1847 to for hire in the area covered by the Council
- 'Private Hire Vehicle' refers to a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 ("the Act") to carry passengers for hire or reward by prior booking
- 'Private Hire Operator' refers to a person who holds an operator's licence under the Act and makes provision for the acceptance of private hire bookings for themselves or to pass to others to undertake
- 'The DfT' refers to the Department for Transport including previous names under which that department has been known
- 'The DfT guidance' refers to the Department for Transport – Hackney Carriage and Private Hire Vehicle Licensing Best Practice Guidance (published in March 2010)
- 'The Committee' refers to the Public Protection Committee of the Council
- The word 'taxi' has no meaning in law and can be used generically to describe both Hackney Carriages and Private Hire vehicles
- 'The OfT' refers to the Office of Fair Trading
- 'The DPA' refers to the Data Protection Act 1998
- DBS refers to the Disclosure and Barring Service
- 'The Guidelines' refer to the Council's guidelines for the relevance of convictions when considering the grant or renewal of a licence

The following Acts of Parliament form the basis of this Policy.

- The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976

Policies and Practices

The Council's licensing of taxis, drivers and operators takes account of the requirements, powers, duties, and responsibilities contained within the relevant Acts and the DfT Guidance.

Data Protection

The Data Protection Act 1998 ("DPA") covers the collection, storage, processing and distribution of personal data. It also gives certain rights to individuals about whom information is recorded.

The Council aims to fulfil its obligation under the Act to the fullest extent by only processing personal data for the purposes of legitimate interests pursued by the Council or legal requirements imposed on the Council.

The DPA obliges local authorities to comply with eight data protection principles. The principles state that personal data shall be:

- Obtained only for specified and lawful purposes;
- Adequate, relevant and not excessive in relation to the purpose(s) for which it is being processed;
- Accurate and, where necessary, up to date;
- Processed fairly and lawfully;
- Processed in accordance with the rights of the data subjects
- Kept secure
- Kept only as long as necessary
- Transferred to countries outside the European Economic Area only if those countries have an adequate level of protection for the rights of data subjects

Further information about the DPA can be obtained at the Information Commissioner's website (www.ico.gov.uk). Enquiries regarding the Council's use of personal data should be addressed to the Council's Data Protection Officer.

Public Register

The Council will hold and maintain a register for all the licences which it issues. The information held on the register will be restricted to the name of the licence holder; a unique licence number; the date of commencement; and the date of the expiry of the licence.

The register will be available for inspection by prior arrangement with the Councils Licensing team.

Applications for Grant/Renewal--Private Hire/Hackney Carriage drivers

It is the responsibility of the Council to protect the public and to ensure that before anyone is granted a licence the Council needs to be satisfied that he/she is a "fit and proper" person to hold such a licence.

There is no agreed definition for "fit and proper" - in the absence of such a definition, the Council will use the widely accepted interpretation of:

"Would those responsible for granting a licence be happy for their mother, daughter or any lone or vulnerable person to travel unaccompanied with the applicant?"

Process and Requirements for an Initial Application

Before granting a licence the Council requires that:

- a) The applicant is over 21 years of age
- b) The applicant produces a valid full UK driving licence (or the European equivalent) that reveals no relevant convictions and the applicant must have held a full licence for more than one year
- c) The applicant produces a medical report undertaken by their own GP which has regard for the DVLA Medical Standards of Fitness to drive Level II and shows that the applicant meets the required medical standard
- d) The applicant provides a recent enhanced disclosure from the DBS that is less than one month old
- e) The applicant has completed the necessary application forms and provides two recent colour passport sized photographs
- f) The applicant has paid the appropriate fee
- g) The applicant provides two references which indicate their suitability
- h) The applicant holds either a BTEC Level 2 certificate in the 'Introduction to the Role of the Professional Taxi and Private Hire Driver' qualification, or, where that is not locally available, to have taken and passed the Driving Standards Agency (DSA) taxi test which incorporates the wheelchair manoeuvring element. These are minimum requirements. Higher levels of qualifications such as a National Vocational Qualification (NVQ) for licensed drivers will also be accepted
- i) The applicant has passed the Council's geographical test for Private Hire and Hackney Carriage drivers. The test is currently provided locally at Burslem College.

Where an applicant meets all the above criteria the licence will automatically be granted and issued.

The licence will be valid for a period of three years.

Renewal Applications

The application process for the renewal of a licence requires the same elements as the initial application with the following exceptions:

- a) There will be no requirement to undertake a local knowledge test
- b) Where the previous application was accompanied by a medical certificate no such certificate will be necessary. The Council's policy is, where applications are continuous, a medical certificate will only be required at every other application
- c) For drivers who have reached 65 years of age a medical certificate will be required for every application
- d) There will be no requirement to provide references
- e) Where an application is submitted after a licence has expired, that application will be treated as a new application and not a renewal
- f) Where an application for renewal is made by anyone who does not hold a BTEC qualification or the DSA taxi test the licence will only be valid until 1st October 2015. Those licences restricted to 1st October 2015 will be extended to the full term of three years on production of a relevant qualification.

The successful applicant for the grant or the renewal of a licence will be issued with a driver's badge which will have a unique number; a photograph of the applicant; and the applicant's name. The paper counterpart of the licence will have the same information. The licence will be valid for 3 years. The counterpart of the licence will include a set of the Council's conditions (Appendix 1)

It is the responsibility of the applicant to acquaint him/herself fully with the conditions attached to the licence and of the offences that can be committed while holding a licence and acting as a Private Hire or Hackney Carriage driver.

Where an application is received and the driving licence and/or the DBS disclosure reveal convictions that fall within the Council's guidelines for the relevance of convictions (Appendix 2) the application will be referred, in the first instance, to the Head of Business Improvement, Central Services and Partnerships who will consider the matter, and, when necessary, will forward the matter to the Council's Committee.

The Committee will consider such applications and has the discretion to:

- a) Grant a licence for a specified period of time
- b) Grant a licence for the full term of three years

- c) Refuse the application

Any applicant who is refused a licence by the Committee will be notified in writing of that decision and the reasons behind the refusal. If the applicant is aggrieved by the decision he/she has the right of appeal in the Magistrates' Court.

Medical Standards

In circumstances when a licence has been granted and the Council subsequently has doubts regarding the medical fitness of the licence holder the Council will require confirmation from a recognised occupational health practitioner that the licence holder continues to meet the recommended standard.

Vehicle Standards

No vehicle - Hackney Carriage or Private Hire - will be considered for its initial licence unless it has been seen by and/or approved by the Council's Licensing Service. Vehicles must not be altered from the manufacturer's standard.

Accidents

The proprietor shall report to the Council's Licensing Section as soon as reasonably practicable, and in any case within 72 hours, of the occurrence of any accident involving the vehicle which causes damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.

When making any decision on the suitability of a vehicle, the following will be taken into account: The vehicle will:

- a) Have uniform paintwork
- b) Be free of visible rust
- c) Have an interior that is clean and upholstery which is free of stains and free of splits and tears
- d) Be free of any unrepaired damage
- e) Where repairs have been necessary these will have been completed by qualified technicians and will have been carried out to the highest standard
- f) Have, in the case of estate cars, a method of securing luggage in order to safeguard passengers
- g) Have a steering wheel that is on the offside of the vehicle
- h) Be fitted with tyres that are the designated size, speed and weight rating for that make and model of vehicle as prescribed by the vehicle manufacturer.
- i) The vehicle will also be provided with either:-

- A spare tyre that is the correct size, speed, and weight rating, is inflated, and has the legally required depth of tread, and equipment to enable the changing of a wheel;
 - The manufacturer's approved space saver spare wheel, and equipment to enable the changing of that wheel;
 - Alternatively, to carry a puncture repair kit that includes a method of inflating the tyres and free of any major mechanical faults or defects
- j) Be fitted with an anti-lock braking system
- k) Have an adequate system for heating and ventilation for the comfort of the passenger and at the discretion of the passenger
- l) Have fitted rear passenger windows that are not heavily tinted or blacked out and will allow a minimum of 35% transmission of light

Hackney Carriage Vehicle Licences

What is a Hackney Carriage Vehicle?

A Hackney Carriage is a vehicle licensed under the Town Police Clauses Act 1847 and the Act part II to ply for hire throughout the district controlled by any relevant local authority.

At present, the Council has no limit on the number of Hackney Carriage vehicle licences it can approve, although the Council's policy for any additional Hackney Carriage licences is that they will only be granted to vehicles which are wheelchair accessible.

Those operators who have Hackney Carriage vehicles which are 'saloon type cars' can replace that vehicle with another saloon type either on renewal or prior to renewal of licences. In circumstances where an operator allows a licence attached to a saloon type to expire then that licence no longer exists.

Vehicle Suitability

The Council presently grants initial applications to those vehicles that are either purpose-built 'London-type cabs' or those vehicles that have been specifically converted to Hackney Carriages (typically known as an M1 conversion). These converted vehicles should meet a European-wide type approval and should conform to the Conditions of Fitness Regulations laid down by Transport for London (formerly the Public Carriage Office). These regulations have been amended to be relevant for the Council. The amended version can be seen at Appendix 3.

The Council's policy does not permit Hackney Carriages that are wheelchair accessible to be replaced by any other type of vehicle, although replacing a saloon/estate or hatchback for a wheelchair accessible vehicle is permitted once the change has been made.

Where a licence is granted it will normally be valid for a period of one year.

Licence Renewal

Licence renewals shall be annual and shall run concurrently with the expiring licence.

Vehicle Requirements

For a vehicle to meet the Council's criteria for a Hackney Carriage licence it must:

- 1) Meet the requirements outlined in the Vehicle Standards section of this Policy
- 2) Be less than five years of age when first tested
- 3) Be black with a four inch white stripe which runs the length of both sides of the vehicle
- 4) Be fitted with a taximeter, calibrated to the Borough Council's approved tariff
- 5) Be fitted with an illuminated roof sign
- 6) Shall not be a convertible or coupe (but a sun roof may be fitted)
- 7) Shall not be modified from the original manufacturer's specification
- 8) Shall have a minimum passenger seating capacity of four (this can increase to a maximum of eight passenger seats)
- 9) Shall not be fitted with rear passenger windows that do not allow a 35% transmission of light
- 10) Shall have sufficient boot space to accommodate a reasonable amount of passenger luggage

The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) shall be fully complied with.

Age of Vehicles

- 1) Purpose built Hackney Carriages and those vehicles which have been converted to incorporate the standards laid down by the Public Carriage Office will continue to be relicensed despite their age subject to passing an annual test and the licences running concurrently
- 2) The Council will use the date of the first registration shown on the vehicle's log book to determine the age of that vehicle.
- 3) Vehicles that are not purpose-built - that is saloon vehicles, estate vehicles and hatchback vehicles - will continue to be re-licensed up to eight years of age subject to passing an annual test and the licences running concurrently.

“Exceptional Condition”

Operators can apply to re licence a saloon type vehicle that is over 8 years of age under the “exceptional condition” rule. This protocol enables operators who consider that their vehicle is in such exceptional condition that it should be considered outside the Councils age policy. Qualification for this will be considered when the following process has been completed.

1. Once a vehicle has reached 8 years of age it will be required to undertake an exceptional conditions test at the Council’s Knutton Lane Depot alongside the normal taxi vehicle inspection test. This will allow the vehicle to be licenced for a further 6 months
2. Undergo a further 6 monthly vehicle inspection which will allow the vehicle to continue to be licenced for the rest of the 12 month period.
3. If the Operator wishes to challenge a Council decision in relation to the Exceptional test then an independent organisation can mediate (AA or RAC).

Council Officers will have discretion regarding any minor faults with the vehicle and their decision shall be final.

There may be other influencing factors that may assist the Council in its decision making and which could also be added to the draft Policy:

- a) The vehicle will have uniform paintwork that is lustrous and scratch free.
- b) Be free of visible rust.
- c) Have an interior that is clean and upholstery which is supportive and free of stains and free of splits and wear and tear.
- d) Be free of any unrepaired damage.
- e) Repairs that have been made will have been carried out by qualified persons and will be to the highest standard.
- f) Be free of any major mechanical faults or defects.
- g) Will have a record of being serviced at regular intervals either by a main agent or other reputable garage. Ideally this servicing will be recorded in the vehicles original service booklet.

These further elements will be influential in assisting the Council to determine a vehicles condition.

- a) The vehicle to have Uniform paintwork that is lustrous and scratch free.
- b) Be free of visible rust.
- c) Have an interior that is clean and upholstery which is supportive and free of stains and free of splits and wear and tear.
- d) Be free of any unrepaired damage.
- e) Repairs that have been made will have been carried out by qualified persons and will be to the highest standard.
- f) Be free of any major mechanical faults or defects.

- g) Will have a record of being serviced at regular intervals either by a main agent or other reputable garage. Ideally this servicing will be recorded in the vehicles original service booklet.

Applications

All applications, whether for a grant of a licence or a renewal of a licence, should be accompanied by the following:

- The appropriate fee with a completed application form
- A current VOSA MOT certificate where the vehicle is over three years of age
- A certificate of insurance that provides for the insured to use the vehicle for public hire.

Vehicle Testing

Before a licence is issued, the vehicle will be examined and tested at the Council's Operational Services department. The cost of this initial test is contained in the application fee. Where a vehicle fails the initial test a fee will be payable before any retest is undertaken. Information on fees is contained under the Licence Fees section of this Policy. In most circumstances where an advisory item has been identified on a VOSA MOT certificate, this will constitute a failure at the Council test.

Licence Plates - Conditions

On successful completion of the application, the applicant will be issued with two Hackney Carriage plates which will be fitted to the exterior of the vehicle (one at the front and one at the rear).

The position the plates are affixed will be on or close to the height of the bumper of the vehicle and will be attached using fixings that allow the plates to be removed by the Council's Enforcement Officers.

In addition, a copy of the licence details will be issued, and these will be sited inside the vehicle in such a position that it can be seen by passengers.

The applicant will be issued with a licence which will be valid for one year. A set of conditions will be attached to the licence and it is the responsibility of the applicant to familiarise him/herself with these conditions. The conditions can be seen at Appendix 4.

Expiry of licence

In circumstances where a proprietor allows the Hackney Carriage licence attached to a saloon-type vehicle to expire and has made no attempt to renew that licence then any new application shall be in accordance with the Council's policy that says "all new applications for Hackney Carriage licences

shall only be approved for those vehicles that are purpose-built or have been converted in accordance with taxi regulations and are wheelchair accessible”.

Where extreme mitigating circumstances exist in connection with the expiry of a licence and this can be proven then consideration of these extreme circumstances will be given by those people who have delegated powers in the Council’s Scheme of Delegation.

Hackney Carriage Tariffs

Tariffs for Hackney Carriages are approved and set by the Council’s Committee. When a request for any increase of the tariff is received and is approved by the Committee, the proposed revised tariff will be published in the local newspaper for 14 days after which, should there be no objections, the revised tariff will be applied.

Taximeters and Tariffs

The proprietor of a Hackney Carriage shall ensure that the vehicle is fitted with a taximeter. This meter shall be maintained and in working condition at all times.

The taximeter shall be calibrated to reflect the tariff approved by the Council, and should be positioned where it can easily be seen and read by the hirer and shall be capable of being suitably illuminated during any period of hiring.

The taximeter should be of a design that allows a method of sealing, following calibration, in order to prevent alteration or tampering.

The meter will be fitted where it can be clearly visible to the hirer.

The positioning of the meter will not interfere with the vision of the driver.

Operation of the meter will only commence when the hirer is seated in the vehicle and before the journey commences.

At the termination of a hiring the driver shall ensure that the hirer sees the meter reading before any payment is made.

Operation of the Taximeter

Prior to any hiring the meter must be zeroed and show no reading. On acceptance of a fare, the driver will select the appropriate tariff:

Tariff 1

During daytime hours Tariff 1 will be selected.

Tariff 2

After midnight Tariff 2 may be selected. This is at a rate 50% more than Tariff 1.

Tariff 3

During Bank Holidays Tariff 3 may be selected. This is at a rate of 100% more than Tariff 1.

There may also be a separate tariff for those Hackney Carriages licensed to carry five or more passengers when five or more passengers hire the vehicle

A Hackney Carriage driver may demand less than the fare shown on the face of the taximeter but may never demand more than the fare shown on the taximeter.

The taximeter must remain on at all times when working within the Borough of Newcastle under Lyme and may only be turned off when working outside the Borough.

A sample tariff sheet can be seen at Appendix 5.

Hackney Carriage Signage

The Council's policy on signage allows all-over advertising only on those vehicles that are wheelchair accessible provided that national advertising standards are met. No advertisements that promote alcohol, tobacco, or contains any element of a sexual nature, nudity or semi nudity, nor if any advertising contains political, ethnic, religious, sectarian, sexual or controversial text, likely to offend public taste, or that depicts or advocates violence, or advertising any racist or sectarian group or organisation which promotes or advocates violence.

Approval for any all-over advertising will be required from the Council's Licensing team.

Signs incorporating the name and telephone number of the proprietor of the vehicle are permitted for those Hackney Carriages that are saloon-type vehicles. These signs shall be composed of either black and white lettering of not more than two inches in height, with appropriate spacing and may be displayed on the two front doors of the vehicle only.

Hackney Carriage Ranks

The provision and siting of Hackney Carriage ranks within the Borough of Newcastle under Lyme is done in partnership with the Council and Staffordshire County Highways Department. The Council will always attempt to ensure that there are adequate Hackney Carriage rank spaces to properly serve the needs of the travelling public.

Private Hire Vehicle Licences

What is a Private Hire Vehicle?

The term 'Private Hire Vehicle' refers to a vehicle licensed under the Act to carry passengers for hire or reward by prior booking.

Unlike Hackney Carriages there is no mechanism for limiting the numbers of Private Hire Vehicles

Accidents

The proprietor shall report to the Council's Licensing Section as soon as reasonably practicable, and in any case within 72 hours, of the occurrence of any accident involving the vehicle which causes damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.

Vehicle Requirements

For a vehicle to meet the Council's criteria for a Private Hire Vehicle licence it must:

- 1) Meet the requirements in the Vehicle Standards section of this Policy
- 2) Be less than five years of age when tested
- 3) Be any colour other than black
- 4) Have at least four doors (excluding a tailgate)
- 5) Not be of such design and appearance as to lead any person to believe that the vehicle is a Hackney Carriage
- 6) Not be a convertible or coupe (but a sunroof may be fitted)
- 7) Not be modified from the original manufacturer's specification
- 8) Not be fitted with rear passenger windows that do not allow a 35% transmission of light
- 9) Have sufficient boot space to accommodate a reasonable amount of passengers luggage
- 10) Have a minimum passenger seating capacity of four. This can increase to a maximum of eight passenger seats. These can include those vehicles that are mini buses or MPVs.

The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) shall be fully complied with.

Applications

All applications, whether for a grant of a licence or a renewal of a licence, will be accompanied by the following:

- The appropriate fee with a completed application form
- A current VOSA MOT certificate
- A certificate of insurance that provides for the insured to use the vehicle for hire or reward under Private Hire booking

Vehicle Testing

Before a licence is issued, the vehicle will be examined and tested at the Council's Operational Services department. The cost of this initial test is contained in the application fee. Where a vehicle fails the initial test a fee will be payable before any retest is undertaken. Information on fees is contained under the Licence Fees section of this Policy. In most circumstances where an advisory item has been identified on aVOSA MOT certificate, this will constitute a failure at the Council test.

Licence Plates, Licence and attached Conditions

On successful completion of the application and testing of the vehicle, the applicant will be issued with two Private Hire Vehicle Licence plates. These will be required to be fitted to the exterior of the vehicle - one at the front and one at the rear. The position at which they are affixed will be on, or close to, the height of the bumper of the vehicle and will be attached using the fixings provided.

In addition, the applicant will be issued with adhesive signs which read "Private Hire Pre Booked Journeys Only". These will be affixed to the front doors of the vehicle.

The applicant will be issued with a licence which will be valid for one year. The licence will include a set of conditions. It is the responsibility of the applicant to familiarise him/herself with those conditions. These conditions can be seen at Appendix 6.

Signage

Advertising is not permitted on Private Hire Vehicles.

Age of Vehicles

When a vehicle has been licensed as a Private Hire Vehicle it is capable of being re-licensed annually until the vehicle is eight years old, providing that the licences run concurrently.

The Council will use the date of first registration shown on the vehicle's log book to determine the age of the vehicle. Where a licence is issued and the expiry date is after the eight year rule the licence will remain in place until its expiry.

"Exceptional Condition"

Operators can apply to re licence a vehicle that is over 8 years of age under the "exceptional condition" rule. This protocol enables operators who consider that their vehicle is in such exceptional condition that it should be considered outside the Councils age policy.

Qualification for this will be considered when the following process has been completed.

1. Once a vehicle has reached 8 years of age it will be required to undertake an exceptional conditions test at the Council's Knutton Lane Depot alongside the normal taxi vehicle inspection test. This will allow the vehicle to be licenced for a further 6 months
2. Undergo a further 6 monthly vehicle inspection which will allow the vehicle to continue to be licenced for the rest of the 12 month period.
3. If the Operator wishes to challenge a Council decision in relation to the Exceptional test then an independent organisation can mediate (AA or RAC).

Council Officers will have discretion regarding any minor faults with the vehicle and their decision shall be final.

These further elements will be influential in assisting the Council to determine a vehicles condition.

- a) The vehicle to have Uniform paintwork that is lustrous and scratch free.
- b) Be free of visible rust.
- c) Have an interior that is clean and upholstery which is supportive and free of stains and free of splits and wear and tear.
- d) Be free of any unrepaired damage.
- e) Repairs that have been made will have been carried out by qualified persons and will be to the highest standard.
- f) Be free of any major mechanical faults or defects.
- g) Will have a record of being serviced at regular intervals either by a main agent or other reputable garage. Ideally this servicing will be recorded in the vehicles original service booklet.

In respect of mini buses, these vehicles should be less than five years of age when first tested and can continue to be licensed for as long as the vehicle continues to pass the Council's annual test, provided that the applications to renew the licence run concurrently to the expiring licence.

Taximeters in Private Hire Vehicles

Unlike Hackney Carriages, Private Hire Vehicles are not required to have taximeters fitted, although, where a proprietor feels that it would be advantageous to fit a taximeter, the following will apply:

- 1) The meter will be fitted where it can be clearly visible to the hirer
- 2) The positioning of the meter will not interfere with the vision of the driver
- 3) Following calibration to the operator's tariff, the taximeter will be sealed in such a manner that it cannot be tampered with or altered

- 4) Operation of the meter will only commence when the hirer is seated in the vehicle and before the journey commences
- 5) At the termination of a hiring the driver shall ensure that the hirer sees the meter reading before any payment is made
- 6) The meter shall be capable of being suitably illuminated during any period of hiring

Hackney Carriage and Private Hire Vehicles Annual Testing

After a vehicle has had its initial licence it will be eligible for re-licensing, providing that it falls within the Council's age policy and continues to meet the necessary standards.

The re-licensing will be carried out annually, following submission of an application form accompanied with the necessary documents including payment and satisfactory inspection by the Council's Transport Manager.

In circumstances where a vehicle fails the annual test, a list of defects will be issued and a period of 28 days will be given to address those defects before re-presenting the vehicle for retesting.

There will be circumstances when a vehicle fails a test and to retest it would only require a cursory inspection, in these cases a fee will not be required.

When a vehicle fails a test and a retest would require more than a cursory inspection a fee will be payable

Failure of Test and Expiry of Licence

The engineer inspecting a vehicle for its annual inspection will determine whether:

- a) The vehicle passes the inspection - a licence will issued which runs concurrently from the previous licence
- b) The vehicle fails the inspection and requires re inspecting, but the reason for failure is not sufficient to prevent the vehicle from carrying passengers while remedial repairs have been undertaken. This can continue until the licence expires
- c) The vehicle fails the annual inspection and the reasons for the failure require that a notice is issued stating that the vehicle should not carry passengers until repairs have been made and the vehicle satisfactorily passes a re inspection

When a vehicle fails an annual inspection and the licence expires before repairs have been inspected, the vehicle has no licence. When the vehicle has been repaired and presented within the 28 day period allowed and passes a re-inspection, a licence will be issued that runs concurrently from the previous licence.

In circumstances where the proprietor of a Private Hire Vehicle allows the licence to expire and has made no attempt to renew and the vehicle falls outside the Council's age policy for Private Hire Vehicles then that vehicle will not be considered for a licence except under extreme mitigating circumstances which can be proven to the satisfaction of the Council. The consideration of these extreme circumstances will be given by those people who have delegated powers in the Council's Scheme of Delegation.

Private Hire Operators

A Private Hire Operator's Licence is required to enable a person to accept or invite bookings for Private Hire Vehicles.

Before such a licence can be issued the Council must be satisfied that the applicant is a fit and proper person.

Application

The applicant requirements are:

- 1) To provide a disclosure from the DBS (applications received from individuals that hold a current Private Hire or Hackney Carriage drivers licence may already be considered a fit and proper person and may forego this requirement)
- 2) To complete an application form
- 3) To pay the appropriate fee

Where applications are approved, a Private Hire Operator's Licence will be issued, and a set of conditions will be attached to the licence. It is the responsibility of the applicant to familiarise him/herself with those conditions. These conditions can be seen at Appendix 7.

Licences will be issued for three years (unless a lesser period has been specified by the Committee)

Operators Licences outside the Borough Boundary

Section 57 (2) (b)(ii) of the Act part 2 allows local authorities to issue Private Hire Operators Licences to applicants who intend to carry on their business outside the boundary of the relevant local authority.

The Council, in recognising that this section of the Act, have resolved that no licence will be granted to an applicant who intends to carry out his/her business at an address or addresses which are more than one mile outside the Borough boundary.

An exception applies to operators who can claim grandfather rights, that is they currently hold a licence and their business address is more than 1 mile outside the Borough boundary.

The Role of the Public Protection Committee

The Committee consists of elected members of the Council who will consider all matters concerning Private Hire and Hackney Carriages that cannot normally be dealt with by the Council's officers.

This will include, but is not restricted, to:

- a) Applications for Private Hire and Hackney Carriage drivers' licences where the applicant has convictions that fall within the Council's Guidelines, or where the applicant has convictions that fall outside those guidelines but the nature and number of offences give rise to concern
- b) Considering the breach of any condition on a licence
- c) Considering convictions imposed on drivers while they hold a licence.
- d) Considering requests from the Private Hire and/or the Hackney Carriage trade
- e) Considering the instigation of any prosecution
- f) To consider any licensing matter that may arise that is not covered by the Policy or any existing conditions

It is Council policy that no elected member can vote at any committee unless they have received training particular to that committee on which they serve.

When coming to any decision the Committee will always give reasons for that decision and will endeavour to act reasonably and in accordance with the Human Rights Act 1998.

Anyone who is aggrieved by a decision of the Committee has the right of appeal to the Magistrates' Court

Enforcement

It is the responsibility of the Council to ensure that taxi drivers and operators are licensed in accordance with the relevant laws governing Hackney Carriage and Private Hire Vehicles and that the conditions attached to the licences are adhered to.

The Council has a Corporate Enforcement Strategy which guides and informs the Council's approach to any enforcement issues. This document can be found at Appendix 8.

Offences

Offences relating to Hackney Carriages and Private Hire Vehicles are derived from the following sources:

Town Police Clauses Act 1847 (Hackney Carriages only)

Section 40 Giving false information on a Hackney Carriage licence application

- Section 44 Failure to notify change of address of a Hackney Carriage licence
- Section 45 Plying for hire without a Hackney Carriage licence
- Section 47 Driving a Hackney Carriage without a Hackney Carriage driver's licence
- Section 47 Lending or parting with a Hackney Carriage driver's licence
- Section 47 Proprietor employing an unlicensed Hackney Carriage driver
- Section 48 Failure of a proprietor to hold a Hackney Carriage driver's licence
- Section 48 Failure of a proprietor to produce a Hackney Carriage driver's licence
- Section 52 Failure to display a Hackney Carriage plate
- Section 53 Failure to take a fare without a reasonable excuse
- Section 54 Charging more than the agreed fare
- Section 55 Obtaining more than the legal fare (including failure to refund)
- Section 56 Travelling less than the lawful distance for an agreed fare
- Section 57 Failure to wait after a deposit has been paid
- Section 58 Charging more than the legal fare
- Section 59 Carrying persons other than the hirer without the hirer's consent
- Section 60 Driving a Hackney Carriage without the proprietor's consent
- Section 60 Allowing a person to drive a Hackney Carriage without the proprietor's consent
- Section 62 Driver leaving a Hackney Carriage unattended
- Section 64 Hackney Carriage driver obstructing other Hackney Carriages

Local Government (Miscellaneous Provisions) Act 1976

- Section 46 Using an unlicensed Private Hire Vehicle
- Section 46 Driving a Private Hire Vehicle without a Private Hire driver's licence
- Section 46 Proprietor of a Private Hire Vehicle using an unlicensed driver
- Section 46 Operating a Private Hire Vehicle without a Private Hire operator's licence
- Section 46 Operating a vehicle as a Private Hire Vehicle when the vehicle is not licensed as a Private Hire Vehicle
- Section 46 Operating a Private Hire Vehicle when the driver is not licensed as a Private Hire driver
- Section 48 Failure to display a Private Hire Vehicle plate
- Section 49 Failure to notify the transfer of a vehicle
- Section 50 Failure to present a Hackney Carriage or Private Hire Vehicle for inspection upon request
- Section 50 Failure to inform the Borough Council where a Hackney Carriage or Private Hire Vehicle is stored, if requested
- Section 50 Failure to report an accident to the Council within 72 hours
- Section 50 Failure to produce the vehicle licence and insurance upon request
- Section 53 Failure to produce a driver's licence upon request
- Section 54 Failure to wear a private hire driver's badge

- Section 56 Failure of a Private Hire operator to keep proper records of all bookings, or failure to produce them on request of an authorised officer of the Borough Council or a Police Officer
- Section 56 Failure of a Private Hire operator to keep records of all Private Hire vehicles, or failure to produce them on request of an authorised officer of the Borough Council or a Police Officer
- Section 56 Failure of a Private Hire operator to produce his licence on request
- Section 57 Making a false statement or withholding information to obtain a Hackney Carriage or Private Hire driver's licence
- Section 58 Failure to return a plate after notice has been given following expiry, revocation, or suspension of a Hackney Carriage or Private Hire Vehicle Licence
- Section 61 Failure to surrender a driver's licence after suspension, revocation, or refusal to renew
- Section 64 Permitting any vehicle other than a Hackney Carriage to wait on a Hackney Carriage rank
- Section 66 Charging more than the meter fare for a journey outside the Borough without prior agreement
- Section 67 Charging more than the meter fare when the Hackney Carriage is used as a Private Hire Vehicle.
- Section 69 Unnecessarily prolonging a journey
- Section 71 Interfering with a taximeter with intent to mislead
- Section 73 Obstruction of an authorised officer of the Borough Council or a Police Officer
- Section 73 Failure to comply with a requirement an authorised Borough Council Officer or Police Officer
- Section 73 Failure to give information or assistance to an authorised Borough Council Officer or Police Officer

Disability Discrimination Act 1995

- Section 37 Refusal to carry a guide, hearing, or other assistance dog in a Hackney Carriage without a valid certificate of exemption
- Section 37 Charging an additional cost for the carrying of an assistance dog in a Hackney Carriage
- Section 37 Refusal to carry a guide, hearing, or other assistance dog in a Private Hire Vehicle without a valid certificate of exemption
- Section 37 Charging an additional cost for the carrying of an assistance dog in a Private Hire Vehicle

Delegated Powers

The Council's Committee is responsible for the management of the Hackney Carriage and Private Hire licensing regime in the Borough.

In addition, the Council's Chief Executive and the Head of Business Improvement, Central Services and Partnerships, both have delegated powers which are set out in the Council's Standing Orders.

When matters concerning public safety arise a decision concerning the immediate suspension or revocation of licences can be made by those officers prior to consideration of the matters by the Committee.

Licence Fees

The policy does not include fees as these are subject to the Council's annual budget review process. Current fees can be obtained from the Licensing team or via the Council's website.

When setting the fees for Hackney Carriage and Private Hire licences the Council will endeavour to ensure that the costs of the service including the cost of issue and administration will, so far as is possible, be on a cost recovery basis.

Where a licence is issued and a duplicate or copy is required the Council will apply an administrative charge. This charge will reflect the cost to the Council.

Stretch Limousines and Novelty Vehicles

At present the Council do not licence these types of vehicles but it accepts that there should be some form of licensing regulation that encompasses these vehicles and their drivers and is committed to formulate a policy for such vehicles when there exists definitive guidance and best practice.

Partnerships

The Council recognises that partnership working with other regulatory and statutory bodies will benefit the effective running of the taxi licensing regime. Conversely, a properly administered taxi regime will be beneficial to its partners and to the public. To this end, the Council's Licensing team is continuing to develop its effective links with Staffordshire Police, the Border and Immigration Service, benefit fraud investigators, HMRC, VOSA, other departments within the Council such as Revenues and Benefits, and the Council's neighbouring authorities.

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Hi Julia

Comments on the draft policy on behalf of Brighter Futures,

Taxi drivers & DBS

This is great news that there will be a requirement for a DBS check to be completed.

Can the policy also include a requirement for taxi drivers to complete both Adult and Child Protection training,

there is e-learning safeguarding level 1 course available for Staffordshire through the Staffordshire safeguarding Board, e-learning child protection. Looking at the website there may be a charge of £30.00, but would be worth checking,

Adult protection training is also available through the Safeguarding board.

Regards

Susan

Susan Preston
Senior Manager, Health
m: 07879 423 930

brighter futures
creative support, housing and employment

5 Whittle Court, Town Road, Stoke on Trent, ST1 2QE
t: 01782 406000
w: www.brighter-futures.org.uk

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Response from Newcastle under Lyme Borough Council Partnership's
Manager

Most importantly though from my perspective, I think that we need to use the opportunity of reviewing the Policy to ensure that we are taking into account some of the issues raised elsewhere around Child Sexual Exploitation and Safeguarding and ensuring that we have procedures in place to mitigate risks where possible. I know a couple of the Members have mentioned CSE and taxis over the last few weeks and colleagues from the County and Police may also make other suggestions here too.

If you need any further information please let me know.

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Testing Schedule for vehicles of 8 years old

Further to our trade response with regard for vehicles over 8 years old (testing and safety) we present to council amended proposals in respect to comments and conclusions at the Public protection Committee meeting 20/10/14.

- Proprietor/driver books with council licencing council test (date given) pre MOT VOSA (date given) both paid by trade
- MOT VOSA test taken up to 4 weeks prior to council test
- Copy of MOT certificate (pass) and any relevant advisory note presented to council licencing/depot, through MOT station liaison (to be set up),
- All works attached to MOT advisory notice must be carried out prior to council test
- All parts used in respect of work required should be genuine or copy parts not second hand
- Above criteria would be applicable to all hackney carriage and private hire vehicles over 8 years old, to include saloon, hatchback, estate, mini bus, London taxi **and conversions**

Reasons

- A. To ensure the vehicle meets VOSA MOT criteria
- B. To ensure the vehicle goes forward to council test fully prepared as per **the requirement of the hackney carriage and private hire vehicles national inspection standards document**

See document attached

- Present vehicle to council test
- If in the opinion of the vehicle examiner the vehicle has not been fully prepared, the test would be terminated and a further full test shall be required at an extra cost to the proprietor

Continued.....

Page 2

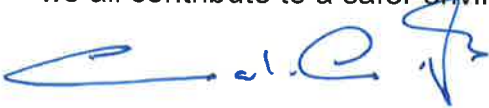
- If the vehicle is re presented for council test and is still not fully prepared the vehicle licence could be revoked by council
- The vehicle would have to be presented for a further VOSA MOT 6 months after the council test. Pass document presented to licencing department (through garage liaison)

The taxi association considers public safety as paramount, and our proposed scheme subject to approval is the only way of ensuring exceptionally high standards of a safe vehicle, over an annual period. Whereas the councils proposal of using the AA or RAC **vehicle inspection for private buyers** is not considered suitable and is totally inappropriate.

Footnote

Mr Nigel R Maden – VOSA – Process manager states:

VOSA recommends that local authorities consider the hackney carriage and private hire vehicles national inspection standards guide, when setting technical standards and take the opportunity to become involved in its outlined development such that we all contribute to a safer environment.



Carl Phillips

For and on behalf of the Newcastle and Kidsgrove Taxi Association

4th November 2014

Hackney Carriage and Private Hire Vehicles

National inspection standards



Best Practice Guide

August 2012

Produced by Hackney Carriage and Private Hire Inspection Technical Officer Group
Public Authority Transport Network (PATN)

Supported by



Delivering safe, efficient, sustainable logistics



FREIGHT TRANSPORT ASSOCIATION

FTA best practice guide to inspection of Hackney Carriage and Private Hire Vehicles

August 2012

Editor: **Andy Mair**

Production: **Hilary Kingdon**

Design: **Tracey Garrett**

This best practice guide sets out the procedures and standards for those who carry out inspections of hackney carriage and private hire vehicles. It is recommended that the guide is also made freely available to owners, proprietors, operators and drivers of hackney carriage and private hire vehicles, who may find it useful as it details the standards that vehicles are subjected to. The guide also explains the reasons why a vehicle presented for inspection has not been issued with a pass certificate.

This guidance deliberately seeks to embrace safety aspects of vehicle inspections using, as a basic inspection standard, those laid down in the MOT Inspection Manual – Private Passenger & Light Commercial Vehicle Testing issued by VOSA. This best practice guide provides additional testing requirements to those in the MOT Inspection Manual. It is advised that local licensing authorities use the best practice guide in conjunction with the VOSA MOT Inspection Manual as an advocate to public safety.

This best practice guide has been developed to provide all local licensing authorities with a benchmark with regard to vehicle inspections and safety.

For details of how to join FTA contact the Member Service Centre on 08717 11 22 22*

*Calls may be recorded for training purposes

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Foreword

The Vehicle and Operator Services Agency (VOSA) is committed to saving lives, making roads safer, cutting crime and protecting the environment.

As responsibility for the maintaining of vehicle safety standards of hackney carriage and private hire vehicles falls to various local authorities, VOSA, in the pursuit of its objectives, fully supports the Public Authority Transport Network (PATN) in its promotion of common standards and best practice within industry.

VOSA recommends that local authorities consider this guide when setting technical standards and take the opportunity to become involved in its continued development such that we all contribute to a safer environment.

Nigel R Maden

*Process Manager Light Vehicles and Vehicle Approval
Vehicle & Operator Services Agency*



Revision record

Section number	Section title	Description of change	Revision date	Revision number
	2009 version	VOSA foreword	November 2009	1
	2012 update	Revised due to changes to MOT scheme from 2012	August 2012	2

Part I: Introduction

1.1 Best practice guide

This best practice guide has been prepared by the Technical Officer Group (TOG) to assist Hackney Carriage proprietors (HC) and Private Hire Vehicle (PHV) drivers/owners and operators. It is intended for use by local licensing authorities, vehicle inspectors and local authority authorised officers.

It is intended that this best practice guide will endorse a *minimum* national vehicle inspection standard. It will be appreciated that it is for individual local licensing authorities to reach their own decisions, both on overall policies and on individual inspection standards, in the light of their own operational needs and geographical circumstances.

Various interested parties, including the Department for Transport (DfT), Vehicle & Operator Services Agency (VOSA), Disabled Persons Transport Advisory Committee (DPTAC) and the Institute of Licensing, have been consulted on this best practice guide.

The Technical Officer Group commends the DfT for the production of the Taxi and Private Hire Vehicle Licensing: Best Practice Guidance. Vehicle operators, local licensing authorities and vehicle inspectors are strongly advised to refer to the DfT guide in conjunction with this best practice guide. More information can be obtained on the DfT website at www.dft.gov.uk

1.2 Application to devolved administrations

The Department for Transport (DfT) has responsibility for HC and PHV legislation in England and Wales and, accordingly, the guidance that has been published will be directed at local authorities in England and Wales. Responsibility for HC and PHV licensing in Scotland and Northern Ireland is devolved, but the respective administrations have been involved in the preparation



of the licensing guidance and will decide for themselves the extent to which they wish to make use of or adapt to suit their own purposes.

1.3 Technical safety issues

The aim of a local licensing authority is to protect the public. Local licensing authorities will be aware that the public should have reasonable access to safe and well maintained HC and PHVs. For example, it is clearly important that somebody using a HC or PHV should be confident that the vehicle is safe.

To this end, this best practice guide will detail specific vehicle safety issues based on expert technical knowledge and experience of the Technical Officer Group (TOG). This guide will focus therefore on technical safety issues and make recommendations towards safe working practices. For example, the TOG supports the DfT recommendation that there is no upper age limit for HC and PHVs provided there is documentary evidence to support a routine maintenance regime.

Local licensing authorities will want to ensure that each of their various licensing requirements is properly justified by the risk it aims to address. This is not to propose that a detailed, over-zealous inspection regime creates difficulties for the HC and PHV trades but primarily to promote vehicle safety for the protection of passengers and not for the benefit of operators.

1.4 Scope of the guidance

This guidance deliberately seeks to embrace safety aspects of vehicle inspections using, as a basic inspection standard, those laid down in the *MOT Inspection Manual – Private Passenger & Light Commercial Vehicle Testing* issued by VOSA. This best practice guide provides additional testing requirements to those in the MOT Inspection Manual. It is advised that local licensing authorities use the best practice guide in conjunction with the VOSA MOT Inspection Manual as an advocate to public safety.

This best practice guide has been developed to provide all local licensing authorities with a benchmark with regard to vehicle inspections and safety.

1.5 Specification of vehicle types that may be licensed

The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as HC or PHVs.

Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.

Normally, best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicles as possible. Indeed, local licensing authorities might usefully specify only general criteria, leaving it open to the HC and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way, there can be flexibility for new vehicle types to be readily taken into account.

It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But, of course, the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).

1.6 Accessibility



In addition to their general conditions, local licensing authorities will want to consider the accessibility for disabled people (including – but not only – people who need to travel in a wheelchair) of the vehicles they licence as Hackney Carriage or Private Hire vehicles.

Licensing authorities will be aware that it remains the Department

for Transport's intention to make accessibility regulations for Hackney Carriage vehicles subject to a Law Commission review. In the meantime, licensing authorities are encouraged to introduce HC accessibility policies for their areas.

1.7 Type approval

It may be that from time to time a local licensing authority will be asked to license, as a HC or PHV, a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet the local licensing authority's criteria for licensing, but may nonetheless be uncertain about the wider rules for foreign vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. For passenger cars up to 10 years old at the time of first GB registration, this means meeting the technical standards of either:

- European Community Whole Vehicle Type Approval (ECWVTA)
- National Small Series Type Approval (NSSTA) or
- Individual Vehicle Approval (IVA)

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. Further information about these requirements and the procedures for licensing and registering imported vehicles can be seen at www.businesslink.gov.uk

It is important for local licensing authorities to insist that **at least one** of the above 'type approvals' is produced prior to any **imported vehicle** being licensed as a Hackney Carriage or Private Hire Vehicle. Local authorities are advised to verify the validity of an IVA certificate by contacting the VOSA helpline number 0300 123 9000.

Voluntary inspections

Vehicles that are already registered for use in the UK are not eligible for a statutory approval, however there are situations where evidence of compliance with the approval standard would be beneficial or be a requirement. An example would be a local licensing authority that may require evidence of compliance for a vehicle that has been modified since original registration, or where evidence of compliance is being used as part of a contractual agreement on a modified vehicle. To facilitate this requirement, a non-statutory voluntary IVA test is available, and it would be appropriate for local authorities to accept a 'basic' IVA certification as a minimum requirement. The test criteria applied will be dependent on the vehicle category/class nominated on the application form VIVA 1. The fees are the same as those appropriate to the particular class of vehicle/test required, other than VAT is payable. If the vehicle is found to meet the requirements, a letter of compliance with the technical standards will be issued and not an Individual Approval certificate. The letter of compliance is not acceptable for first licensing/registration purposes.

1.8 Vehicle testing

There is considerable variation between local licensing authorities on vehicle testing. This best practice guide provides local licensing authorities with a **minimum** standard for vehicle inspections. All HC and PHV must be maintained to no less than the standards set out in the VOSA publication 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2.

As the term implies, hackney carriage and private hire vehicles are vehicles used for hire and reward purposes and as such are subject to much higher annual mileages and more arduous driving than normal private vehicles. Therefore, in the interests of passenger and other road user's safety, a more stringent maintenance and testing regime is required.

The purpose of the HC and PHV test is to confirm vehicles meet these more stringent standards. Vehicles must be submitted fully prepared for the test. **It is not intended that the test be used in lieu of a regular preventative maintenance programme.** If, in the opinion of the vehicle examiner, the vehicle has not been fully prepared, the test will be terminated and a further full test shall be required. It is an offence under the road traffic regulations to use an unroadworthy vehicle on the public highway.

HC proprietors and PHV drivers/owners and operators failing to maintain their vehicles in a safe and roadworthy condition may have their vehicle licence suspended, revoked or their licensing application refused by the local licensing authority. In addition, licence holders risk the suspension or revocation of their driver or operator licences by the local licensing authority.

This best practice guide should be read in conjunction with Vehicle & Operator Services Agency (VOSA) publication 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2. This best practice guide provides a working document for those who inspect, maintain and prepare vehicles for inspection prior to being issued with a hackney carriage or private hire licence. Although detailed in its content the best practice guide is not exhaustive.

However, in assessing the mechanical condition of a vehicle, it is more likely an item which would ordinarily pass an MOT test with an advisory note, could fail the HC and PHV test.

2 Novelty vehicles (stretched limousines)

This section of the best practice guide offers advice to local licensing authorities on the requirements for licensing novelty vehicles. The standard of the test for novelty vehicles will be at the same standard as for other private hire vehicles. That is, as a basic inspection standard, those laid down in the 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing' issued by VOSA and this best practice guide. *(For the purpose of clarity, novelty vehicles in this guide will refer to stretch limousines only until such times as further guidance is obtained on any other such vehicle, ie fire tenders etc.)*



A novelty vehicle shall only be registered as a private hire vehicle if it complies with the following conditions.

- Vehicles with no more than eight passenger seats as indicated on the V5C. The V5C will state the number of seats and **must be produced to the local licensing authority prior to the vehicle being licensed or inspected.** If the number of seats differs to what is indicated on the V5C, then contact VOSA and your local area DVLA office immediately. Failure to produce a valid and current V5C for the vehicle to be tested could result in refusal to inspect the vehicle
- Evidence of either European Community Whole Vehicle Type Approval (ECWVTA) or Individual Vehicle Approval (IVA) being presented for inspection
- Local licensing authorities may consider, as novelty vehicles are not factory produced, that a recommended vehicle maintenance inspection be applied every 10 weeks. The frequency of maintenance inspections is recommended by Traffic Commissioners, VOSA and the National Limousine and Chauffeur Association (NLCA)
- The inspection standards to be applied to novelty vehicles are the same standards as those applied to other hackney carriage and private hire vehicles with the following additions:
 - Any additional item previously mentioned in this paragraph with regard to seating capacity, the production of the relevant documents and frequency of vehicle inspections
 - See part 2, section 4 – Tyres and road wheels. Reference in this section is made to tyre rating to be applied to novelty vehicles
 - See part 2, section 12 – Vehicle Identification Number (VIN) markings should be checked to ensure compliance, seating capacities and undue stresses

Local licensing authorities are strongly advised to obtain a declaration, from the operator of a licensed novelty vehicle, that the side facing seats will never be used to carry passengers under 16 years of age, **regardless of whether the vehicle is fitted with or without seat belts.**

It is strongly advised that notices forbidding children to be carried in side facing seats are displayed in prominent positions, ie on entry to the passenger compartment and on either side of the passenger compartment. Local licensing authorities may also require additional outward facing signs adjacent to all entrance/exit doors to the passenger compartment.

3 General information

Only vehicles complying with the following conditions will generally be considered for licensing as private hire vehicles.

-
- Cars fitted with at least four doors and four wheels
 - Right-hand drive vehicles – with the exception of stretch limousines (where applicable)
 - Vehicles with adequate space for luggage
 - Vehicles must be capable of carrying at least four and not more than eight passengers in addition to the driver
 - With the exception of stretch limousines, vehicles will not be accepted with blacked out windows. Passengers being carried in the vehicle must be visible from the outside. In **exceptional circumstances**, tinted windows may be acceptable
 - To allow a thorough examination of a vehicle or any part thereof, it must be presented for test in a clean condition. The vehicle presented will fail the test if, in the opinion of the vehicle examiner, the vehicle is so dirty that it would be unreasonable for the test to be carried out
 - A test will not be carried out unless the licence fee/ examination fee has been paid in advance

Statement of undertakings and declaration

In the interests of road and passenger safety, the licensed driver/ owner or operator undertakes to make proper arrangements so that licensed vehicles are kept in a roadworthy condition at all times.



Appendix C

Hackney Carriage and Private Hire – Inspection sheet (front)

Hackney Carriage and Private Hire
Inspection form

Space for
local authority logo



IMPORTANT: READ NOTES OVERLEAF

Chassis no	Certificate of Compliance serial no		Class of inspection (tick) <input type="checkbox"/> Hackney Carriage <input type="checkbox"/> Private hire <input type="checkbox"/> Car purchase
Vehicle reg mark	Make and model	Year of manufacture	
Plate no	Recorded mileage	Colour	

A	Item inspected	Pass (✓)	Fail (✗)	Reasons for failure
	Lighting equipment			
	Front and rear lamps			
	Headlamps			
	Headlamp aim			
	Stop lamps			
	Rear reflectors			
	Direction indicators			
	Steering and suspension			
	Steering control			
	Steering mechanism/system			
	Power steering			
	Transmission			
	Wheel bearings			
	Front suspension			
	Rear suspension			
	Shock absorbers			
	Brakes			
	Controls/ABS warning system			
	Condition of service brake system			
	Condition of parking brake system			
	Service brake performance			
	Parking brake performance			
	Tyres and wheels			
	Tyre type			
	Tyre condition (including spare)			
	Road wheels			
	Seat belts			
	Mountings			
	Condition			
	General			
	Driver's view of the road, mirrors			
	Horn			
	Exhaust system			
	Fuel system			
	Exhaust emissions			
	Vehicle structure			
	Body interior and luggage space			
	Fire extinguisher, first aid kit and bulb			
	Mesh test and seal			
	Registration plates/discs			
	Roadworthy and FTA sign			
	Body exterior			
	Doors and seats			
	Electrical wiring/equipment			
	Speedo			
	Oil and water leaks			
	Ancillary equipment			
	Trailers and tow bars Yes/No			

*delete as appropriate	B	I hereby certify that the above vehicle has been inspected and has/has not [®] been found to be roadworthy and suitable to be used as a hackney carriage/private hire [®] vehicle at the same time of inspection.	Authentication stamp
		Signed _____ (Tester/Inspector) Name in capitals _____ Date _____	

C **WARNING: IN MY OPINION, THE VEHICLE IS DANGEROUS TO DRIVE BECAUSE OF THE FOLLOWING DEFECT:**

Hackney Carriage and Private Hire – Inspection sheet (back)

If your vehicle has failed the test please read the following notes

- 1 Your vehicle does not meet the legal requirements. You should have it repaired without delay and you are not to use the vehicle for hire and reward until such repairs are carried out.
- 2 It is an offence to use on a public road a vehicle of testable age that does not have a current certificate of compliance, except when:
 - bringing it away from a testing station after it has failed the test
 - taking it to or bringing it away from a place where by PREVIOUS ARRANGEMENT repairs are to be or have been made to remedy the defects for which the vehicle was failed
 - taking it to the testing station for a test booked in advance

Even in the above circumstances you may still be prosecuted for driving an unroadworthy vehicle if it does not comply with the various regulations affecting its construction and use.

Additionally the insurance may not be operative.

- 3 A FULL FEE IS PAYABLE IF:
 - a the vehicle is submitted for retest at the testing station more than seven days after being failed
 - b having been presented for a retest, fails any subsequent test

ACKNOWLEDGEMENTS (current and past contributors)

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Enforcement Team response to the Draft Taxi Licensing Policy for Newcastle under Lyme

Thank you for the opportunity to comment on the emerging draft taxi Licensing Policy dated 1st November 2014.

The Enforcement section carries out work which involves the Boroughs Private Hire and Hackney Carriage Fleet of just under 1,000 vehicles. The enforcement team is often involved with neighbouring local authorities and police authorities, and quite often this work will involve the necessary identification of cars and drivers. Please find below a concern regarding the councils policy.

We would concur that the policy is a thorough and comprehensive document however it may be prudent to consider the following observation :

With regard to paragraph six of Standard conditions attached to a Hackney Carriage Vehicle and section 3 Paragraph (1) of Standard conditions attached to a Private Hire Vehicle

1 . It can be difficult to identify vehicle plate numbers when trying to investigate complaints . These complaints may range over a number of incidents, the most serious of which can involve assault and rape. Identification is becoming more difficult with longer plate numbers and firms that change names. At present the only signage a licensed vehicle is required to display comprises of a plate that is attached the rear of the vehicle, a plate attached to the front bumper and an internal number that is displayed in the front of the window screen. It may help to address this identification problem if in addition to the above plates, vehicles were to show their plate number as a large number on the doors of the vehicle. The plate number would remain constant and can be seen easily by members of the public and Police officers.

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Mr. G Johnson,
10 Watlands Avenue,
Wolstanton,
Newcastle U Lyme,
Staffs.
ST5 8AS
25th January 2015

Dear Sir or Madam,

I am writing to you regarding the proposed Taxi Licensing Policy 2014-2019, with particular attention to the paragraphs regarding vehicles considered to be of "Exceptional Condition". (Page 16)

I have held a licence to drive taxis in the Borough of Newcastle Under Lyme continuously since 1991. During this time the car industry has seen many changes in terms of quality, safety and durability; the taxi licensing policy, however, does not reflect this in favour of suggesting that cars older than eight years may be in some way inadequate when it comes to serving the general public. I would like to suggest that this is outdated, unnecessary and unfair.

The suggestion is that for any vehicle over eight years old, in addition to the council test (designed solely to ensure vehicles are fit for purpose) a further test must also be undertaken by either the RAC or AA in order to ensure that the vehicle is road safe. For my current vehicle, this would mean my incurring an extra cost of at least £202 annually.

It is no secret, I'm sure you'll agree, that local bus companies are allowed to run vehicles which are over twenty years old; are these vehicles not intended to transport the paying public in the same way that taxis do? Why and how is it then that busses of a certain age can be deemed as fit for purpose when much newer and more modern vehicles are subject to stringent and costly tests before being given the green light.

As, of course, you are aware, there have been fundamental changes to the taxi industry in Newcastle Borough for example the delimiting of the number of Hackney Carriages on the road, causing hardship to already long serving and reliable drivers. No regard appears to have been given to how drivers are able to make a reasonable living in a town now saturated with taxis. And it would appear this latest proposal has been made in the same vein and will only serve to cause more hardship and in fact unrest in an already fractured local business. I fail to see the need for an additional test – surely this suggests that one of the tests is inadequate and therefore an unnecessary cost. In times of austerity, as councils are so keen to draw upon when it is in their favour, has any thought been given to the hardship inflicted on taxi drivers and their families as a result of unjustified and flawed proposals?

The council test has indeed been in operation for many years and as far as I am aware served the Borough well. This insistence of a further test by an outside organisation will once again prove detrimental to local people and so the very Borough we work hard to serve. Some faith needs to be invested in the engineers presently testing vehicles for the council. This would prove fruitful not only for these men and women but for the Borough per se as locally earned money is being put back into the Borough and not into outside and much larger, wealthier organisations. A little loyalty often goes a long way.

I ardently believe that we have a duty to serve the public well and that vehicle safety is of paramount importance. Furthermore, I take pride in ensuring that my vehicle is not only safe but clean and presentable. However, I do not feel that in addition to the statutory MOT required by law to ensure a vehicle is road worthy and the council test, designed specifically to approve a vehicle as fit for the purpose of transporting the general public, the already squeezed taxi driver should be expected to pay out for another test. This is non-sensical and try as I have, I cannot understand how you can reasonably justify this.

I await your response.

Yours faithfully,

Gordon Johnson

APPRECIATION REGARDING CONSULTATION

I have full consent pertaining to 2 tests offer 8 years old etc. However I disagree with regards to service record as it is only provided by the main dealers, as it is obvious, costs awful lot of money. This is not affordable as it being too expensive.

With regards to vehicles replacement the allotted 28 days do not seem to be enough. The reason of this could be elaborated as finance companies minimum duration for the completion of such task is 8 weeks. Time limit should be granted serious consideration in this regard. I humbly request that my suggestions should be taken on board as these are quite logical.

THANKS

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BOROUGH OF NEWCASTLE U LYME DIRECTORATE - RESOURCES		
13 APR 2015		
PASSED TO	CONFER WITH	CIRC TO

Carl Phillips
 458 Lightwood
 Road
 Lightwood
 Stoke on Trent
 ST3 7EY

Head of Business Improvement and Partnerships
Local Government (Miscellaneous Provisions) Act 1976 Part II
Newcastle Under Lyme Borough Council
Draft Taxi Licencing Policy

I write to confirm my support for the consultation and the new taxi policy. In particular the opportunity that allows a proprietor/driver of an aged vehicle (8 years old) to meet an exceptional vehicle test combined with council test.

However, I expressed my concern and opinion at the last meeting of 12th March 2015 with regard to criteria (G), page 11, which states:

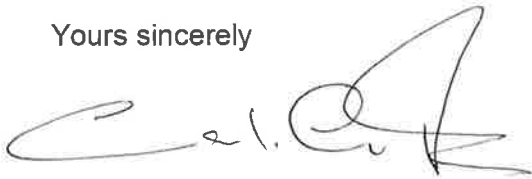
'vehicles will have a record of being serviced at regular intervals either by a main agent, or a reputable garage. Ideally, this servicing will be recorded in the vehicles original service book'.

I am still of the opinion that this criteria cannot be met by the majority of owners. This finding was accepted by Steve G, garage manager (council), Trevor Nicole, Head of Transport (council), council solicitor and Licencing Officers in attendance.

I consider this criteria should be removed from the Draft Taxi Policy, and request your support on this important matter.

The council test has indeed been in operation for many years and has served the Borough of Newcastle well, faith needs to be invested in the management team and the experienced engineers presently testing our vehicles for the council, as the whole process is vehicle dependant.

Yours sincerely



Carl Gary Phillips

CC Juia Cleary, Licencing Department

BOROUGH OF NEWCASTLE U LYME DIRECTORATE - RESOURCES		
14 APR 2015		
PASSED TO	CONFER WITH	CIRC TO

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Response Received from a Member of the Public:

This has probably been pointed out but the draft refers to licenses running "concurrently". I believe you mean, "consecutively" i.e. there is no break in the license year on year.

As a member of the public, I should like to see a list of the operators rates in every private hire vehicle. I myself have been the subject of charging abuse on several occasions - and after speaking to others many have suffered the same fate. I understand the rule is to seek a price beforehand but practically this rarely happens. A rate card with clear instructions would greatly benefit the general public, which the Policy seeks to protect.

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Public Protection Committee
Work Plan – As at 3 November, 2014

Date of Meeting	Item	Reason for Undertaking
22 December, 2014		
26 January, 2014		

Date of Meeting	Item	Reason for Undertaking
17 March, 2015		
29 June, 2014		