



Kirklees Council  
Hackney Carriage and Private Hire Policy

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## Contents

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## Foreword

We are proud of Kirklees and the diverse and vibrant area it is. We are ambitious for the place and our people and as an authority want to celebrate all that makes Kirklees special. We would like Kirklees to be a safe and cohesive place and for people to be protected from harm. This includes the provision of licensed vehicles which are valued by residents, visitors and businesses. It is important that these operate lawfully and sensitively, taking into account the needs of the customers and the wellbeing of nearby residents and people enjoying other activities.

In Kirklees we will use this policy to guide the licensed trade and new applicants when making applications under the relevant legislation and to assist officers in reaching decisions on those applications that they consider.

This is a robust policy that raises standards in Kirklees. Our intention is to both protect the public and to safeguard children and the vulnerable. The policy is designed to promote and improve professional standards and behaviours amongst licensed drivers, to increase an awareness of safeguarding issues and to ensure those that share the Council's vision and commitment to achieve a high standard to thrive.

At the heart of this policy is a commitment to:

- Protect the public
- Safeguard children and the vulnerable
- Prevent crime and disorder
- Prevent public nuisance
- Provide safe and green streets

This document sets out Kirklees Council's general approach to the licensing of private hire and hackney carriage drivers in the town which supports the Council's priorities:

- Children have the best start in life
- Clean and Green
- Safe and Cohesive
- Sustainable economy
- Aspire and Achieve
- Well
- Efficient and effective

We aim to ensure that licensed drivers operating in Kirklees are of the highest quality and can be held to account for their performance.

The Council recognises the important role that the hackney carriage and private hire trade play in enabling people to travel round the area and in doing so they also have a role in portraying the image of the area.

We are committed to building on a partnership approach with the licensed trade and will continue to look to improve standards to ensure that Kirklees remains a safe place to visit and enjoy your leisure time and that everyone has a safe and pleasant journey home in our licensed vehicles.

The policy has been subject to an 8 week consultation period and we are grateful to all those who have submitted comments to help shape the final policy.

The Council will implement the policy from [ ] and officers will keep it under review. A formal review will take place every three years when the policy will be considered by the Licensing and Safety Committee.

## **Section 1**

### **1.1 Introduction**

Kirklees Council is responsible for the regulation of hackney carriage and private hire drivers, vehicles and operators within the Kirklees area. The policy builds on the experience and knowledge we have gained by administering and enforcing the legislation for many years, particularly when addressing issues that may impact on the safety and well-being of our residents, visitors to the district and those working in the district.

This policy and any related procedures and processes will guide the work of Kirklees Council and the way in which it carries out its functions. The policy has immediate effect and will be applied to existing licences and new applications received after the date that the policy is adopted by the Council.

The policy has been developed by Kirklees Council and it has done so in partnership with the West Yorkshire Licensing Committee in relation to the fitness and suitability criteria (Appendix A) and the driver training policy (Appendix C). This is to achieve consistency and clarity across the West Yorkshire region. The policy was also developed after consulting with the West Yorkshire Combined Authority, the trade and the public and sets out the requirements and standards that must be met. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document. However, each application or enforcement action will be considered on its own merits.

### **1.2 Aims and Objectives**

The overriding aim of the Council, when carrying out its functions relating to the licensing of hackney carriage or private hire drivers, vehicles proprietors and operators, is the protection of the public and others who use, or can be affected by, the hackney carriage or private hire services; and the Council will not hesitate to act when it is made aware of issues that have the potential to undermine this aim.

Hackney carriage and private hire vehicles play a vital part in Kirklees' transport network and provide an invaluable service to the borough's residents.

Licensed drivers are entrusted with some of the most vulnerable members of our society, from the very young, to the elderly and infirm and those that may be incapacitated through alcohol or drug use and our communities rely on licensed drivers and their vehicles to provide a safe and reliable service. For some people using licensed drivers is the only way they can access vital services.

Licensed vehicles and their drivers enjoy an anonymity on our roads that is shared only by emergency vehicles. The appearance of a liveried, licensed vehicle, whether

regularly, or otherwise, at any time of the day or night is unlikely to raise any suspicion as to the reason for it being there. As such the Council will, through regulation of the trade, seek to promote the following objectives:-

- the protection of the public;
- prevention of crime and disorder the establishment of professional and respected hackney carriage and private hire trades;
- consideration of accessibility issues across all equality groups in support of the Authority's commitment to the Public Equality Duty and the Equality Act 2010;
- the protection of the environment;
- the council's values and shared outcomes as defined in its corporate plan;

In carrying out its duties in respect of hackney carriage and private hire licensing, the Council will work with a wide range of partners, including but not limited to: -

- Licensed drivers, operators, vehicle proprietors;
- Locally operating hackney carriage and private hire trade associations;
- Local residents;
- West Yorkshire Police;
- Driver and Vehicle Standards Agency (DVSA);
- HM Revenue and Customs;
- UK Border Agency;
- Department for Work and Pensions;
- West Yorkshire Combined Authority;
- The Office of the Police and Crime Commissioner;
- Other Licensing Authorities;
- Local Safe Guarding Children's Board;
- Local Health Protection Board;

In carrying out its duties in respect of hackney carriage and private hire licensing, the Council will have close regard to this policy, its associated appendices and the objectives this policy seeks to promote. Notwithstanding this, each application or enforcement action will be considered on its merits. Should it be deemed appropriate and necessary to depart from this policy the Council will give clear and compelling reasons for doing so.

### **1.3 Integrated Policies and Strategies**

The following plans and strategies have been considered throughout this policy, helping to shape and define the objectives that the licensing authority has set in place for all applicants and licensees involved in the private hire and hackney carriage industry.

**Kirklees Corporate Plan 2018 -2020**

The corporate plan sets our direction and priorities for the next three years and includes the following priorities:

- **Safe and Cohesive** - People in Kirklees live in cohesive communities, feel safe and are protected from harm;
- **Well** - People in Kirklees are as well as possible for as long as possible;
- **Aspire and Achieve** - People in Kirklees have aspiration and achieve their ambitions through education, training, employment and lifelong learning;
- **Sustainable Economy** - Kirklees has sustainable economic growth and provides good employment for and with communities and businesses;
- **Clean and Green** – People in Kirklees experience a high quality, clean, sustainable and green environment;

How the Licensing Service will contribute:

- Promote good health and assist in preventing and tackling ill health;
- Implement training modules that improve and develop professional standards
- Have a robust, clear and efficient licensing system

How will we do this:

- Work in partnership with Public Health and the NHS to tackle issues around licensing and ill health;
- Provide a taxi licensing system that aims to meet the needs of children and other vulnerable passengers;
- Ensure regular checks are made to ensure drivers are compliant, medically fit and in good health;
- Develop professional and high quality trained licensed drivers;
- Vibrant town – help to provide good public transport for all;
- Deliver an efficient and safe taxi licensing system that provides an efficient mode of transport for all;
- Assist in improving community safety by reducing antisocial behaviour;
- Encourage the uptake of vehicles with cleaner emissions;

### **Kirklees Safeguarding Children Policy**

The licensing authority considers the Kirklees Safeguarding Children Board to be the primary recognised body competent to give advice on the protection of children and some vulnerable passengers. For the purposes of this policy a child is someone under the age of 18 years.

The Kirklees Safeguarding Children Board take a positive and supportive view of this role and where possible, is committed to working in partnership with the licensing authority. The licensing authority will also work in partnership with internal services, Kirklees Safeguarding Children Board, Public Health and Protection Board and other relevant partners to develop good guidance and share information to promote public safety and safeguarding vulnerable passengers.

## **1.4 Changes to Policies, Procedures and other matters**

Significant changes to this Policy, internal procedures or other matters will be reasonably consulted upon and communicated via the Council's website, social media pages and trade meetings.

However, where an issue(s) arises that affects the safety of the public, that is either not covered by this policy, or would be affected by this policy, the Council reserves the right to make immediate temporary changes to this policy and / or its associated appendices without consultation. Subsequently, where temporary change(s) require a permanent alteration the Council will consult on those permanent alterations.

## **1.5 Licensing Overview**

The council recognises the importance of Hackney Carriage and Private Hire vehicles, drivers, proprietors and operators. They play an essential role in the provision of local transport for those who have difficulty getting about on public transport, those enjoying the night time economy, taking children to school etc, and are vital in helping to maintain a healthy local economy. They can often be the first point of contact for a visitor to the local area.

Whilst the general public do not always know the difference between a Hackney Carriage and a Private Hire vehicle, and often refer to both as taxis, there are significant distinctions in law, on how they are allowed to operate. However, both have equal importance.

Within the district in which a Hackney Carriage vehicle (and driver) are licensed, they are available for immediate hiring, they can be hailed (or flagged) in the street, can wait on a rank and be approached directly by a member of the public, and 'ply for hire' in public places. They are not required to be booked via an operator. They must display a fare card within the vehicle which shows the current maximum fares to be charged as set by the local authority. In law, these are allowed to be called 'taxis' or 'cabs' and are sometimes also referred to as Black or London Cabs.

Hackney carriages licensed by another local authority that operate within this district cannot ply for hire or wait on ranks. They may however be used for private hire purposes, i.e. make pre-booked journeys.

A Private Hire vehicle is not allowed to accept direct bookings from the public. They can only accept bookings from a licensed operator; they cannot operate independently, i.e. without a licensed operator. They cannot be hailed in the street or wait on ranks. If a private hire driver accepts a fare which has not been pre-booked through a licensed operator, they are committing an offence and potentially driving without valid insurance.



The fares charged by the private hire trade are not regulated by the authority but must be agreed with the operator at the time of booking. Although, for journeys that start and finish within the district, where a private hire vehicle has a taximeter fitted, the fare charged cannot be more than would be charged by the taximeter. They are not allowed to use the term 'taxi' or 'cab' but may be called 'minicabs'.

## **1.6 Powers and Duties**

There is legislation which the Council must either have regard to and/or places a duty on the Council to carry out its licensing functions in respect of hackney carriage drivers and vehicles and private hire operators, drivers and vehicles.

In carrying out its licensing functions, the Council will comply with legal requirements including requirements of the following statutes:

- Anti-Social Behaviour, Crime and Policing Act 2014;
- Crime and Disorder Act 1998;
- Data Protection Act 2018;
- Equality Act 2010;
- General Data Protection Regulations 2016;
- Health Act 2006;
- Human Rights Act 1998
- Immigration Act 2016;
- Local Government (Miscellaneous Provisions) Act 1976;
- Road Traffic Act 1988;
- Rehabilitation of Offenders Act 1974;
- Town Police Clauses Act 1847 and 1889;
- Transport Act 1985, 1991 and 2000;

### **Immigration**

The council has a statutory duty to ensure that applicants have the legal right to work in the UK prior to issuing a licence. The issuing or refusing of licences will be undertaken in accordance with the requirements of the Immigration Act 2016.

The council takes this responsibility seriously and has checks in place to ensure compliance with the Act and will liaise, where required, with relevant Home Office departments. If a licence has been issued incorrectly for whatever reason, the licence ceases to have effect if the person does not have the right to work in the UK. Any licence which has expired due to the person's immigration status must be returned to the council within 7 days.

A licence may be suspended or revoked or its renewal refused if, since the grant of the licence there has been a conviction of an immigration offence or a requirement to pay an immigration penalty.

Proprietors and operators also have an obligation to ensure that they only use persons who have the right to work in the UK. Failure to observe this obligation, or to provide due diligence checks, will be subject to enforcement action by the Licensing Service or by the appropriate Home Office department, which may result in a civil penalty or imprisonment.

### **Secretary of State Guidance**

The council will give full regard to any guidance issued by the Secretary of State regarding the protection of children, and vulnerable individuals who are 18 or over, from harm. If any changes to any parts of this policy or related appendixes are required when the guidance is released, they will be amended at the earliest opportunity.

## **1.7 Consultation**

{list to be compiled in conjunction with WYCA}

## **1.8 Information Sharing**

The Council will share with other legal bodies, local authorities, regulatory agencies or enforcement bodies, information supplied by applicants, or acquired in the course of exercising licensing functions, where it is lawful to do so. In particular, personal information will only be disclosed in accordance with the General Data Protection Regulations 2016 and the Data Protection Act 2018. This may include requests from other legal bodies, local authorities or regulatory agencies where this is necessary for the detection or prevention of crime or required by law or in connection with legal proceedings. Where applicable, it will be under the relevant Information Sharing Protocol.

Where a document has been translated into English, it must be certified by the translation company. The translation company needs to confirm in writing on the translation:

- that it's a 'true and accurate translation of the original document'
- the date of the translation
- the full name and contact details of the translator or a representative of the translation company

## **1.9 Delegations**

The licensing authority has established a Licensing & Safety Committee that consists of 15 Councillors. The Licensing committee has the authority amongst other licensing matters to discharge non-executive functions in respect of hackney carriage and private hire licensing and to help formulate and review licensing policies in this regard.

The Licensing and Safety Committee has further delegated its functions to a Regulatory Sub-Committee, usually consisting of three members that have been

selected from the Licensing Committee and officers to carry out some of these functions

In addition, the Service Director of Economy and Infrastructure has been delegated to appoint and authorise the Group Leader and licensing officers to investigate and carry out statutory duties under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Some of these authorised powers include but are not limited to:

- Accepting applications
- Granting of licences
- Suspension of licences
- Revoking of licences
- Issuing warnings and cautions
- Investigation and preparation of prosecution files; and
- Investigating complaints/offences

There is a right of appeal against the licensing application and Licensing and Safety Committee decisions. Appeal applications must be made to West Yorkshire Magistrates' Court, sitting at Kirklees, within 21 days of the determination.

<b>Matter to be dealt with</b>	<b>Licensing and Safety Committee</b>	<b>Officers</b>
Full policy /Policy Objectives Review	X	
Fee setting	X	
Application for a hackney carriage and private hire driver's licence		X
Refusal of licence		X
Revocation of licence		X
Suspension of licence		X
Review of licence		X
Formal warnings		X
Investigations of offences and preparation of prosecution files		X
Complaints		X

## Section 2 - General provisions for Hackney Carriage and Private Hire Drivers

### 2.1 Parallel Procedures

The statutory and practical criteria; and qualifications for private hire and hackney carriage driver's licences are similar. Therefore, the sections below, applies equally to hackney carriage and private hire drivers unless indicated.

### 2.2 Drivers general – Fit and Proper Person Requirement

The council will only licence drivers that it considers 'fit and proper', and where the applicant is not disqualified by reason of their immigration status.

The licensing authority has adopted the 'fit and proper' test as contained in the Local Government (Miscellaneous Provisions) Act 1976. Sections 51 and 59. This states that:

*'a district council [the licensing authority] shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence'.*

When deciding whether a person is 'fit and proper' the licensing authority will use the attached policy on determining the suitability of applicants and licensees in taxi and private hire. Appendix A

The burden of proof lies with the applicant proving they are fit and proper, and not the licensing authority proving they are not.

To help the Council judge whether a person is 'fit and proper' applicants and licence holders are required to undertake several checks and tests to establish their suitability to be considered 'fit and proper' to either be or remain licensed.

Applicants and existing licence holders are required to share information held about them by various bodies, such as DVLA, the police, medical information, right to work, immigration status, etc. The council will request any information it deems relevant to determine their fit and proper status. This may include checking a driver's prior history with this or any other local authority, using intelligence from the police or any other local authority service or regulatory authority as deemed appropriate and necessary.

### 2.3 Application for New Drivers Licence

**[APPLICATION PROCEDURE WORK FLOWCHART at beginning or the end] so it is clearer – TO BE INCLUDED FOR FINAL POLICY**

#### Pre-Application

Before a person can apply for a drivers licence the following pre-application criteria must be met: -

## **Age**

In order to be eligible to apply to be a licensed driver, an applicant must have held a valid full driving licence for a minimum of two years. Therefore the minimum age a person could be eligible to apply is 19 years old. There is no maximum age, so long as the applicant still meets the full criteria.

## **Driven Assessment**

Before any application can be made, new applicants must have successfully completed the approved council driving test. Kirklees Council's approved training provider for the driven test is the Driver Training Unit; however, where the applicant has passed the previous DSA test or the equivalent test with another West Yorkshire Authority (including York), the Council will accept the certificate providing it was completed within the previous 12 months from the date the application is accepted.

Applicants for a Hackney Carriage licence will be required to undertake the disability access section of the driving assessment test.

The tests will be conducted using the applicant's vehicle which must be roadworthy. The assessor will not carry out the test if the vehicle appears un-roadworthy and the fee may be lost.

The fee for this training must be paid direct to the provider.

Applicants can only attempt the driven test on 3 separate occasions, after which a period of 6 months must elapse before a further test can be taken.

Applicants must make a full application within 12 months of passing the test. Those applicants that fail to do so will be required to undertake and pass the test again.

## **Medical**

It is essential that licensed drivers are in good health as they are expected to carry passengers' luggage, will drive on the road for longer periods than most car drivers, and may need to assist disabled passengers. The council must be satisfied that the drivers' licenses are sufficiently fit to undertake the tasks expected of them.

Being a licensed driver is a demanding role, safe driving requires the involvement of vision, hearing, attention, concentration, perception, good reaction time, judgement, coordination, muscle power and control etc.

Due to the length of time an occupational driver (hackney carriage and private hire) spends at the wheel, it is appropriate to have more stringent medical checks and standards than those applicable to non-professional drivers.

As such the Council have adopted the DVLA group 2 medical. This is in line with the DVLA, The Royal Society of Medicine and Department for Transport's recommendations and is considered best practice for licensed drivers. The DVLA

group 2 medical is a recognised national standard developed by DVLA for bus and lorry drivers.

The medical must be completed by the applicant's own family doctor. If it is not possible to obtain a medical from their own doctor the Council may accept a medical completed by another doctor, providing that doctor has had sight of the applicant's full medical record and provides a declaration to say they have examined the applicants full medical record.

Upon reaching the age of 45 a Group 2 Medical report will be required every 5 years until the age of 65. From the age of 65, each renewal must be accompanied by a group 2 medical.

The Council have adopted the DVLA Group 2 Medical Examination Form and will only accept this form as proof of a medical. A link to this form can be found on the licensing webpage.

### **Knowledge Test**

The Council believes that, due to the nature of the role and the high demands and pressures that are brought with it, all applicants should undertake a rigorous training programme.

In addition, the very nature of a private hire and hackney carriage driver is to transport passengers from one place to another, and to this end all applicants must have a sound knowledge of the Kirklees District.

Given the rural nature of the district where satellite signals / mobile data signals might be intermittent, it is imperative applicants do not have to rely on electronic devices and other forms of navigation equipment to be able to travel from place to place; they should have a sound knowledge of all major points of interest within the Kirklees District.

To support this members of the West Yorkshire Combined Authority (including York) have developed a West Yorkshire Combined Authority Driver training programme that all applicants for a licence must undertake before a licence is granted.

In Kirklees, this training programme must be completed by an approved training centre, before an application for a licence can be submitted; details of approved training centres can be found at Appendix C.

The aim of the training is to:-

- help provide a high level of professional service to customers;
- ensure passengers feel safe whilst travelling with a licensed driver;
- assist licence holders in working in a professional way;
- ensure there is an understanding of the basic legislation underpinning taxi and private hire work;
- ensure there is an understanding of the risks associated with working as a driver and help licence holders take reasonable steps to reduce those risks;

- ensure there is a basic knowledge of the geography of Kirklees district and the various town centres;
- ensure that licence holders can use a basic reference tool (GPS, A-Z);
- ensure a licence holder understand the conditions attached to holding a private hire driver's licence and the conditions attached to holding a private hire vehicle licence;

#### New Driver Application Appointment

Upon completion of the pre-application criteria, an applicant will be entitled to make an appointment for new driver application. At the appointment, applicants must provide the following original documents, failure to do so will result in their application being refused –

- Completed application form;
- Valid driven test certificate;
- Valid medical;
- Valid knowledge test certificate;
- Valid documents to prove immigration / right to work status – Any of the following documents are acceptable:-
  - British Passport;
  - Passport from a European EEC Member;
  - Biometric Residency Permit;
  - Immigration / right to work permit in a foreign **in-date** passport;
- All of the following documents to enable a DBS check to be completed
  - Valid passport;
  - DVLA drivers licence;
  - 1 Utility Bill – electricity, gas, water, landline telephone bill, council tax or bank statement within the last 3-months;
- Statutory driving licence;

At the new driver appointment, a check of the DVLA database will be made for any motoring convictions / penalty points recorded against the applicant. If any motoring convictions / penalty points are recorded the application will be put on hold, and the matter will be considered in line with the Council's fitness and suitability / convictions policy which can be found at Appendix A.

At the new driver appointment, the Council will conduct a criminal record check with the Disclosure and Barring Service. The results of this check will be posted to the applicant; and upon receipt of the completed check an applicant must make an appointment to produce the certificate to the Council. Any information recorded on the certificate will place an application on hold while the matter is considered in line with the Council's fitness and suitability policy a copy of which can be found at Appendix A.

During the course of an application, information may come to light, that is not recorded on an applicant's DBS and / or DVLA record that may affect the suitability of a person to hold a licence. Any such information, will be considered in line with the Council's fitness and suitability policy a copy of which can be found at Appendix A

If information is recorded on an applicant's driving licence and criminal records certificate, both matters will be considered at the same time as whole.

## 2.4 Renewal of a Drivers Licence

The Council do not issue renewal letters and it is the responsibility of the individual licence holders to ensure they apply for the renewal of their licence before their existing licence expires. If a licensed driver fails to renew before the expiry of their existing licence, they will be required to apply as a new driver and meet all the requirements of such an application.

A licence holder can start the process of renewing their licence up to three-months before the expiry of their existing licence. To start the process an appointment needs to be made and the licence holder must attend the appointment with all relevant supporting original documentation.

At the renewal appointment the following documents must be produced:-

- Completed application form
- Statutory driving licence

If, as part of the renewal, a new DBS certificate is required then the follow documents must be produced:-

- Valid passport
- DVLA drivers licence
- 1 Utility Bill – electricity, gas, water, landline telephone bill, council tax or bank statement within the last 3-months

If, as part of the renewal, a new 'medical' is required this must be produced at the renewal appointment.

If as part of the renewal process, a new DBS certificate and / or medical is required please contact Kirklees Direct who will be able to provide further advice.

If a new DBS is required, the application to renew the licence must be made in sufficient time for the DBS to be returned before the licence expires. A Licence can be renewed up-to three-months in advance, we advise that application is made as close to the beginning of those three-months as possible.

## 2.5 Convictions, Cautions and Related Matters

In considering if an applicant is fit and proper, the council will take into consideration any prior convictions, cautions and other relevant information as set out in the Fitness and Suitability of applicants and Licensees as set out in the policy at Appendix A.

Therefore, all applicants for new licences and renewals are required to undertake and submit an Enhanced DBS check. This check will detail criminal convictions and cautions including those that are spent, and other relevant matters which may be held by the police about them. It does not prove an applicant's right to work.

It is important the council remains updated about relevant convictions after any licence has been granted. Therefore as per guidelines set out by the Local Government Association, all drivers must register for the DBS Update Service to allow the Council



to receive updates. If not already registered for the service, an applicant will only be able to do so when the DBS certificate has been issued. This will then enable the council to use the DBS Update Service, Multiple Status Check Facility.

Due to the type of work performed by licensed drivers, they do not fall under the Rehabilitation of Offenders Act 1974. This means that what would be considered as spent, under the Rehabilitation of Offenders Act, is still taken into consideration when determining applications for licensed drivers.

Where convictions, cautions, reprimands or warnings appear on a DBS certificate, it is not the place of the council to go behind the existence or reason of that conviction. Whilst mitigating circumstances may have applied at the time of the conviction, the council cannot re-try the conviction. Depending on the offence committed, applicants may be able to demonstrate it was a 'one off'; they acted out of character, so are unlikely to be repeated. Each application will be determined on its own merits.

The existence of a criminal conviction, caution, reprimand or warning does not necessarily preclude an applicant from obtaining or retaining a driver's licence. Conversely, the absence of any convictions or cautions does not mean that an applicant will be licensed. Each application will be determined on its own merits.

Further information is contained in the guidelines relating to the relevance of convictions, cautions, reprimands or warnings in relation to taxi licensing attached at Appendix A.

Licensed drivers must notify the licensing department of any cautions, convictions, immigration offences, or other relevant matters, including road traffic offences such as speeding, or being placed on police bail pending enquiries, which occur during the application or renewal process or after the licence has been issued.

If it comes to the attention of the council that a licensed driver has failed to notify the council of relevant matters which occur during the application or renewal process or after the licence has been issued, it will be taken particularly seriously. It shows a propensity towards dishonesty and questions the fit and proper status of the licence holder.

### **Common Law Police Disclosure**

Under Common Law Police Disclosure (CLPD) the police can share information regarding a licensed driver even before a conviction if there is a "Pressing social need". This ensures that where there is a public protection risk, the police will pass information onto a regulatory body to allow immediate action to mitigate any serious safeguarding risk.

Any information released under the CLPD will be considered in line with the Councils fitness and suitability policy, a copy of which can be found at Appendix A

### **Residency**

Applicants who have not resided continuously in the UK for five years will be required to submit a Statement / Certificate of Good Conduct, authenticated by the relevant embassy of the country of residence, in addition to the Enhanced DBS certificate. This must be translated into English at the applicant's expense. The Statement / Certificate of Good Conduct, must be no more than 3 months old at the time of submission.

### **DVLA Checks**

Given the main function of a licensed driver is driving, the council needs to be satisfied an applicant for a new licence and the renewal of a licence, holds a valid driving licence and whether any relevant penalty points are recorded on their statutory driving licence.

Checking an applicant's driving record is an essential in assessing a person's fitness and propriety and is seen as a vital measure that the council will carry out for all applicants.

All driver licence checks will be carried out with the Driver Vehicle Licence Agency and will reveal information on: -

- The licence validity dates
- The categories of vehicle the driver can drive
- If there are any endorsements on the licence; and
- If the driver is disqualified

Consideration of penalty points and driving offences will be made in accordance with the guidelines relating to the relevance of convictions / cautions in relation to taxi licensing which can be found at Appendix A.

## **2.6 Carrying of Assistance Dogs**

### Carrying of Assistance Dogs

Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and

Not to make any additional charge for doing so. It is best practice to ask the passenger where they want themselves and their dog to sit in the vehicle.

### Medical Exemption Certificates

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.

The Licencing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request; with the cost of this certificate being borne by the driver being granted the exemption.
- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

The licensing authority fully supports the legislation as set out in the Equality Act 2010 and has put in robust measures to ensure that all licensees fulfil this requirement. The licensing authority will investigate complaints of drivers refusing to pick up passengers with assistance dogs and if no exemption certificate is held the authority will refer the case to Legal Services for prosecution provided there is enough evidence to provide a realistic prospect of conviction and it is in the public interest to do so.

## **2.7 Conditions**

The Council is permitted to impose such conditions, as it considers reasonably necessary, on private hire drivers. Appendix B sets out the conditions attached to drivers' licences.

The conditions at Appendix B do not form part of the policy document, although they may be referred to within it. These conditions could be subject to change during the duration of this policy, but such amendments may not result in a review of this policy.

The Council, in its absolute discretion, may vary the standard licence conditions for any driver if it is deemed necessary to do so.

## **2.8 Refresher Training**

The Council wants to ensure that all drivers remain up to date with current industry legislation and practice. Currently licensed drivers will be required to attend every three years an awareness session. No test will be required and details can be found in the Driver Training policy attached at Appendix C.

## **2.9 Significant Changes**

All licensed drivers are under a duty to notify the council of any significant changes which may affect their licence; such as:

- a) Change of name, address, email address or telephone number. Email address is strongly encouraged;
- b) Change of immigration status;
- c) Changes in their health which may affect their driving ability;
- d) All convictions, cautions, reprimands, warnings and DVLA penalty points;

- e) Any other matter which may bring in to question their fit and proper status;

## **2.10 Drivers Badges**

All licensed drivers are required to prominently display their driver's badge whilst working as a licensed driver unless an exemption is granted by the Licensing Authority. Failure to comply is an offence under the 1976 Act and local byelaws. Drivers are reminded that the driver's badge remains the property of Kirklees Council; all expired and surrendered badges must be returned to the council.

The Council issues Dual Drivers licences meaning it is possible to drive either a licensed private hire or licensed hackney carriage vehicle; however, those vehicles must be licensed by Kirklees Council.

## **2.11 Duration of Licences**

From October 2015 Driver's licences are to be granted for a period of up-to 3 years. There may be circumstances where a licence cannot be issued for 3 years this may include:

- The applicant is due to retire or cease being a licensed driver;
- The driver is being given a trial following a hearing/assessment of their fitness to hold a licence;
- In the case of a situation where the licence is not in sync with the DBS certificate a licence may be granted until the end of the 3-year term of the current DBS certificate.

Other cases may arise from time to time such that the Group Leader for Licensing deems it appropriate to issue a licence for a period of less than 3 years.

## **2.12 Applications taking longer than 6 months**

Where a 'new' application is submitted for a dual driver's licence and that licence is not granted within 6 months from the date of the DBS certificate, then a new DBS certificate and medical will have to be applied for and returned before a licence can be granted.

## **2.13 Code of Conduct when working with vulnerable passengers**

It is essential that young, elderly and other vulnerable people are safeguarded and protected whilst being transported in a licensed vehicle. Accordingly a specific Code of Conduct must be complied with when working with vulnerable passengers. This is provided at Appendix K. It is a condition of the licence that drivers adhere to this policy.

## Section 3 - General provisions for hackney carriages and private hire vehicles

### 3.1 Application for licence

To obtain a vehicle licence a vehicle proprietor must first source a vehicle that meets the Council current specification and age limit, see Appendix D for further information.

If satisfied the vehicle meets the Councils current criteria then:-

- Call the Councils MOT Stations on 01484 221000 – ask for Transport – when prompted, select the option to book ‘taxi test’.
- If booking an appointment for the renewal of a licence, it will be the vehicle proprietor’s responsibility to ensure that the garage test date is not earlier than 4 weeks of the vehicle licence expiry date.

**Please note, the age limits below are based on existing policy. The Council is consulting on removing the minimum age requirement and introducing a policy for new vehicles based on emission standards, as such, this section may be subject to change.**

- It will be the vehicle proprietor’s responsibility to ensure that the vehicle is not over 10 years old if it is an already licensed vehicle (not over 12 years old if they are wheelchair accessible), and, not over 6 years old if it is a new vehicle.
- The garage test fee of £48 is directly payable to the garage on the test day. These fees are strictly non-refundable.
- To make the licensing appointment call Kirklees Direct on 01484 456868 – when prompted, select option 1 to make the licensing appointment. This appointment date has to be after the garage test date.
- A HPI check will also be undertaken at this appointment if it is a new vehicle. The following documents will be required at this appointment:
  - Completed application form
  - Appropriate fees (Card payment only)
  - Test pass sheet from the garage
  - Valid insurance
  - Log book / Proof of purchase
  - Letter from the Operator (for new vehicles/vehicle change)

In addition, any new vehicles that are a Category S insurance write off, will require an Autolign certificate before a licence can be issued. Any modified vehicles, for example a goods vehicle converted into a passenger vehicle, will require an IVA certificate or equivalent before a licence can be issued.

## 3.2 Exemptions from Control

The 1976 Act exempts the following vehicles from control under the Act: -

- a) vehicles while being used in conjunction with a funeral or used wholly or mainly for the purpose of funerals by a funeral director;
- b) vehicles while being used in connection with a wedding;

## 3.3 Vehicle Criteria

### Specification

Local licensing authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriage or private hire vehicles.

The Council have differing vehicle specifications for hackney carriage vehicles, private hire vehicles, stretched limousines and highly adapted vehicles. Full details of the Council's approved specification can be found at Appendix D.

Applicants for vehicle licences should pay particular attention to the following aspects of the approved vehicle specification.

- Type Approval

Before a vehicle can be licensed it shall have an appropriate "type approval" which is either a European Community Whole Vehicle Type Approval (ECWVTA) or UK Low Volume Type Approval (UKLVTA). Vehicles shall not have been altered since that approval was granted.

Any vehicle that has been type approved as N1, but has been subject to modification, must undergo and pass an IVA before a licence can be granted.

- Vehicle Age Limits

**Please note, the age limits below are based on existing policy. The Council is consulting on removing the minimum age requirement and introducing a policy for new vehicles based on emission standards, as such, this section may be subject to change.**

The Authority operates an age policy in relation to the age at first licensing and the age at which a vehicle will no longer be licensed.

The current policy for the Council in relation to vehicle age is as follows:

- 1) Applications for Hackney Carriage/Private Hire vehicles to be considered for first licensing up to 6 years of age
- 2) Hackney Carriage/Private Hire vehicles over 10 years of age will be refused further licences.

- 3) That the only exemption to the maximum age limit of 10 years will be applied to London cab type vehicles, the maximum age for such vehicle will be 15 years. Any other wheelchair accessible vehicles used for Hackney Carriage purposes to be licensed to a maximum of 12 years.

- Emissions

The Council are looking to encourage the use of low emission vehicles, including electric vehicles. In order to support this the Council are working with West Yorkshire Combined Authority to install a network of electric charging points for electric vehicle to utilise

In addition, the Council are consulting on the following proposed Emissions policy for the private hire and hackney carriage trades:-

All new vehicles will need to meet the following emissions criteria:-

- Petro Engines – Must meet Euro 5 Standards
- Diesel Engines – Must meet Euro 6 Standards

- Tinted Windows

All windows fitted to Kirklees Private Hire Vehicles must comply with the minimum legal requirements; to transmit 75% of light to the front windscreen and 21% light to all other vehicle windows. Further, all vehicles must meet required standards at annual testing. No tinted film is accepted on current licensed vehicles or new applications.

### 3.4 Limitations on Numbers

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

In relation to hackney carriage vehicles, the current legal provision on quantity restrictions is set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriage 'if, but only if, the local authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.'

The Council is satisfied that there is no significant unmet demand for the services of hackney carriages; therefore, the Council shall limit the number of hackney carriages it licences to 250. The Council will determine whether there is any significant unmet demand at regular intervals. An independent survey was last undertaken in 2017.

### 3.5 Vehicle Testing

All licensed vehicles are tested at the Councils testing station. Tests are conducted at the time of being licensed and upon renewal.

48 hours notification of a cancellation must be given, failure to do so may result in a further payment for a test being charged.

Where the Council is not satisfied with the roadworthiness of a vehicle it may request an HPI check or require the vehicle to undergo an independent inspection and an 'Autolign' report produced at the cost of the applicant. This is to provide information and guidance relating to the proposed licensing of the vehicle.

Where a vehicle fails its test and the vehicle tester is not satisfied as to the roadworthiness of the vehicle, the vehicle may be suspended by an Authorised officer of the Council.

### 3.6 Insurance Write Offs

On the 1st October 2017 the system insurance companies use to classify vehicle write offs changed. As a result of these changes the following table details how the Council, in its capacity as licensing authority, will deal with vehicles that have been written off by an insurance company.

Categories (from 1.10.2017)	Action
A - Scrap only	the Council will not licence, or re-licence, a vehicle that has been written off as 'Category A'.
B - Break for parts	the Council will not licence, or re-licence, a vehicle that has been written off as 'Category B'.
S - Structurally damaged but repairable	the Council will consider licensing, or re-licensing, a vehicle that has been written off as 'Category S'. However, a vehicle will only be considered for a licence if it has passed an 'Autolign' inspection, and a satisfactory report / certificate produced.
N - Not structurally damaged, repairable	the Council will consider licensing, or re-licensing, a vehicle that has been written off as 'Category N'.

### 3.7 Accidents

In accordance with section 50 (3) of the 1976 Act, the proprietor of a hackney carriage or a private hire vehicle shall report to the Authority as soon as reasonably practicable and in any case within seventy-two hours any accident causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers.

Following the reporting of an accident an Authorised officer will examine the vehicle to ascertain its fitness to be a licensed vehicle.

Where the officer is not satisfied as to the fitness of the vehicle the officer may suspend it from use under s68 of the Local Government (Miscellaneous Provisions) Act 1976. In order to ascertain its fitness, the authorised officer may require the vehicle to be examined, by a vehicle tester, at the Council testing stations.



Where a vehicle is suspended the identification, plates must be removed and returned to the Council within 7 days.

If an officer is not satisfied as to the fitness of the vehicle before the expiration of a period of two months from this suspension, the vehicle licence shall be deemed to have been revoked and a new licence would have to be applied for if wanting to re-licence the vehicle.

### **3.8 Signage and Advertising**

It is important that the public are able to identify and understand the difference between a hackney carriage and private hire vehicle.

#### Style of Plates and window discs

Vehicle identification plates are a key feature in helping to identify vehicles that are properly licensed, the licence plate shall be permanently fixed and displayed on, or in the near vicinity of the rear bumper of the vehicle, so as to be clearly visible on the rear of the vehicle at all times.

The vehicle licence disc shall be fixed and displayed to the inside of the front windscreen on the kerb side in such a manner as to be clearly visible to any passenger, Constable or duly Authorised Officer, but not so as to obstruct or impair adequate forward vision of the driver of vehicle. The licence disc holder shall be fixed to the front near side windscreen, to be clearly visible to all passengers.

The style of plates may change from time to time. The Authority will keep up to date with new developments and current Health & Safety best practice, image, value for money and recognition will always be a high priority.

Plates and window discs and badges must be displayed at all times.

The Council has specified that the vehicle licence number, make, model and licence expiry date, together with the number of passengers it is licensed to carry shall be placed on the vehicle identification plate. This identification plate must not be tampered with, or amended by, anyone other than an authorised officer.

#### Door Signs – Private Hire

A Kirklees licensed private hire vehicle must display an adhesive sign on the top panel on each of the two front doors of the vehicle only, and on no other part of the vehicle, glass or panels. Such door signs are to be permanently stuck on to the door panel at all times the vehicle is licensed as a private hire vehicle. Magnetic signs are not permitted. Corporate door signs are now produced by the Council Licensing office.

Corporate door signs are subject to the Council's prior approval of the design, colour and wording of the sign. All new Private Hire Vehicle applications and annual renewals

if not already purchased from Kirklees Council must display the new corporate door signs manufactured by the Council.

Failure to comply with this condition will entail the immediate suspension of the vehicle licence, and seizure of the magnetic or defaced items for destruction.

The door sign will contain only the Company name/logo and telephone number, the top section of the sign must contain the wording “**ADVANCED BOOKINGS ONLY**” with a minimum letter height of 35mm. Any colour of the sign/wording will be considered with the exception of blue. All signs must be approved by the Council before fitting to licensed vehicles. The Council Licensing Service now has facilities to produce corporate door signs on request.

#### Door Signs – Hackney carriage Vehicles

The Kirklees Council door signs issued by the licensing service must be displayed on the top panel of the licensed vehicle’s two front doors.

The door signs must be permanently fixed to both front doors of the vehicle in the approved manner. The signs must not be fixed magnetically to the vehicle, nor disfigured or reduced from the official size.

Failure to comply with this condition will entail the immediate suspension of the vehicle licence, and seizure of the magnetic or defaced items for destruction.

An advertisement/company logo of a design and size which has the prior approval of the Council may be displayed below the Kirklees official door sign only on the two front doors and not on any other panel of the licensed vehicle.

#### Roof Signs

The Proprietor/Driver of a hackney carriage vehicle shall cause to be fixed and displayed on the roof of the vehicle a taxi roof sign (minimum size 30 inches long) authorised by the Council at all times the vehicle is being used for hackney carriage purposes, with the exception of the London Cab.

Private hire vehicles shall not be permitted to display roof-mounted signs and any signs that include the words ‘taxi’ or ‘cab’ or ‘for hire’

#### Advertisements

The Council, by way of conditions, restricts the advertising that that can be placed on any licensed vehicle; and a vehicle proprietor shall not display or suffer or permit to be displayed on or from the vehicle any advertisement, any other sign including religious or nationalists symbols, notice or device or livery except as may be agreed from time to time by the Council or which is prescribed by or under any enactment. The Council’s full policy in relation to advertisements can be found at Appendix E.

## **3.9 Byelaws**

The Council has made Byelaws under the 1847 Act which apply to hackney carriages; a copy of those bylaws can be found at Appendix F.

## **3.10 Duration of Licences**

Vehicles will be licensed for a period of 12 months. Renewal of the licence will be subject to the vehicle undertaking and passing a further test at the appointed test station.

## **3.11 Ownership of Multiple Vehicles**

There is no limit on the number of vehicle licences an individual can hold.

## **3.12 Security Cameras / Audio Recording Equipment**

Security cameras are permissible in vehicles subject to certain safeguards. In addition, there are limited circumstances in which audio recording may be justified, for example, where recording is triggered due to a specific threat, e.g. a 'panic button' in a taxi cab.

No vehicle equipped with a security camera, and / or audio recording facilities, shall be used unless the existence of the camera and / or audio recording is clearly indicated by a notice displayed.

The Council recognises the sensitive nature of security surveillance in general but also recognises the legitimate concerns of licensed drivers. Equipment should be available to be inspected and images downloadable on request of an Authorised Officer of the Council or Constable.

## **3.13 Smoking**

It is an offence to smoke or allow another person to smoke in a licensed vehicle at any time when it is a licensed vehicle. This applies even if not working.

The use of e-cigarettes and / or vaping in a licensed vehicle by the driver and / or passenger(s) is not permitted.

## **3.14 Transfer of Owner**

Should a vehicle be sold to a new owner the existing licence holder must notify the Authority within 14 days. Failure to do so renders the licence holder liable for prosecution.

Both parties to the transfer of a vehicle must be in attendance at the appointment for the transfer to go ahead.

## **3.15 Cherished Number Plates**

The Council currently allow private hire and hackney carriage vehicle to be fitted with cherished number plates (private registration plates). The following documents must be produced before a vehicle can be licensed with a cherished number plate:-

- Written evidence from the Driver and Vehicle licensing Agency (DVLA) that the vehicle has been granted permission to change its original registration to the cherished number plate.
- Relevant vehicle insurance covering the cherished number plate.
- The vehicles V5 (log book) showing the changes to the new cherished number plate.

If you do not attend your appointment with all the above documents your appointment will not proceed, resulting in the application being delayed.

### 3.16 Temporary Lease Vehicles

The Council's understand that vehicle hire companies may need to licence vehicles on a temporary basis to replace licensed vehicles that have been damaged in an accident. The Council understands that vehicle hire companies have different requirements when it comes to applying to licence such vehicles, and have therefore developed a separate process to assist hire companies. The current process can be found at Appendix I.

Vehicle hire companies, need to be aware that whilst the vehicle is licensed by Kirklees Council, it **must** comply with the Council's vehicle conditions, this include the display of mandatory doors signs and vehicle licence plates.

### 3.17 Executive Vehicles

The Council appreciates that some business people, and / or high profile members of the public may wish to use a; high specification, 'executive' vehicle for the purposes of travel. Whilst the Council do not currently set the type of vehicle that may be classed as executive, it reasonable to expect the specification of the vehicle wishing to be classed as executive, to be substantially above the specification of an normal vehicle.

There is no automatic right for a vehicle, deemed to be executive, to be exempt from displaying mandatory doors signs and/ or a vehicle identification plate, neither does it automatically exempt a vehicle from the Councils current policy on tinted windows or any other condition / policy requirement. In order for a vehicle to be exempt from specific conditions / policy restrictions the following must be provided:-

- The request for executive status must come from the operator the vehicle will be working from. That request needs to be in writing, stating the reasons why the operator requires a particular vehicle to be granted executive status.
- The request from the operator needs to be accompanied by, written evidence of the contacts that particular vehicle will be used to fulfil, if 'executive status' is granted.
- The request from the operator must detail which specific conditions / area of policy they wish the Council to deviate from and the reasons why.

- The written contracts need to be accompanied by a letter from the companies, with whom the contract(s) are with, stating why the company needs an 'executive' style vehicle. The company will need to specify which specific conditions / areas of policy they wish the Council to deviate from and the reasons why. This letter will need to come on the relevant company letter headed paper, with contact details of a person at the company with whom officers can verify its contents.

Where executive status is granted to a vehicle, that status only applies whilst the vehicle is carrying out work for the private hire company that submitted the request. If the vehicle moves to a different company the executive status lapses and the vehicle will need to comply with all the Council's vehicle conditions / policies.

If executive status is granted to a vehicle, the vehicle licence will have conditions attached that state the vehicle can only be used for the contract(s) under which executive status was granted. This would limit the vehicle to being used only for that contract(s) and not normal private hire / hackney carriage work.

### **3.18 Conditions**

The Council is permitted to impose such conditions, as it considers reasonably necessary, on hackney carriage and private hire vehicle licences. Appendix G sets out the conditions attached to private hire vehicle licences and Appendix F sets out the conditions attached to hackney carriage vehicle licences.

The conditions at Appendix F and Appendix G do not form part of the policy document, although they may be referred to within it. These conditions could be subject to change during the duration of this policy, but such amendments may not result in a review of this policy.

### **3.19 LPG and Electric Vehicles**

The Council welcomes the use of environmentally friendly vehicles. The testing arrangements for both LPG and Electric vehicles are the same as for a normal petrol / diesel vehicle.

## Section 4 – General Provisions Relating to Private Hire Operators

### 4.1 General

Operators of private hire vehicles are required to be licensed under the 1976 Act. No person may operate a vehicle as a private hire vehicle if the vehicle or the driver is unlicensed.

“Operate” means, in the course of business, to make provision for the invitation or acceptance of bookings for a private hire vehicle.

### 4.2 Application Process

Every applicant for an Operator licence shall be required to: -

- Complete the appropriate application form;
- Complete a DBS Disclosure form (unless already a Kirklees licensed driver);
- Attend a Private Hire Operator training and appropriate assessment;

The Council will only issue licences to applicants that are deemed to be fit and proper. In assessing this, the Council will have regard to the following:

- Criminal record (including convictions, cautions, warnings, fixed penalties and reprimands);
- Issue of any Magistrate’s Court summons against them;
- Any harassment or other form of warning or court order within the civil or criminal law including Anti-Social Behaviour Orders or similar;
- Factors such as demeanour, general character, non-criminal behaviour, honesty and integrity;
- Previous conduct or complaints (particularly in cases where the applicant holds or has previously held a licence issued by Kirklees Council);
- Business practices demonstrated by the applicant (for example standard of record keeping, compliance with other regulatory requirements, financial practices etc.);
- Their arrest for any offence (whether or not charged);

The assessment of a person’s ability to hold a private hire operator’s licence will be made in accordance with the Council’s statement of fitness and suitability at Appendix A.

#### Business Partnerships

Where the applicant is made by a business partnership, the applicant shall provide, in addition to the information specified above, the name, date of birth and address of any person who proposes to operate the business in partnership with any other person(s) and undertake the same ‘fit and proper person’ assessment and training and testing requirements as detailed above. The assessment of any person involved

in the business partnership will be made in accordance with the Council's statement of fitness and suitability at Appendix A.

Each Operator licence issued by the Licensing Authority shall be issued only in the name of the applicant, and that person shall be deemed solely responsible as the Operator upon the licence being granted and the licence is not transferable from the first mentioned person to another person.

### **4.3 Convictions**

An Operator, and / or any business partner shall, within seven days, disclose to the Council in writing details of any convictions imposed on him (or any business partners, directors or company secretary) during the period of the Licence or if he is arrested, cautioned or being investigated for any offence whether charged or not.

### **4.4 Change of details**

An Operator shall, within seven days, notify the Council of any change in his or his business partner's address taking place during the period of the Licence.

### **4.5 Conditions**

The Council is permitted to impose such conditions, as it considers reasonably necessary, on private hire operator's Appendix H sets out the conditions attached to private hire operator licences.

The conditions at Appendix H do not form part of the policy document, although they may be referred to within it. These conditions could be subject to change during the duration of this policy, but such amendments may not result in a review of this policy.

### **4.6 Duration of Licence**

Operator licences are granted for 5 years, unless circumstances dictate it should be granted for a lesser period.

### **4.7 Insurance**

A private hire operator may be required to obtain 'public liability' insurance and / or 'employee' liability insurance. Operators should seek advice from the Authority as to whether such insurance is required.

### **4.8 Criminal Records Check**

Where an applicant for a private hire operator's licence is not a licensed driver with Kirklees Council then a basic disclosure check will be required before a licence can be issued.

## 4.9 CSE and Licensing Training

Private hire Operators and the base staff they employ play a vital role in the prevention of Child Sexual Exploitation. Operators, via their booking system can, for example, easily spot repeat journeys from a children's home to a repeat destination.

In addition, operators and base staff need to know the law relating to the private hire / hackney carriage trades. As such, where the operator is not an existing licensed driver, they will need to undertake the following modules of the driver training course, all base staff will also need to complete the same modules:-

- Regulatory Framework;
- Adult safeguarding;
- Children safeguarding;
- Vulnerable passengers;
- Inclusion and Diversity / Disabilities Training;

## 4.10 Advertising

No Operator may use the word TAXI or CAB or HACKNEY CARRIAGE or any combination or derivation thereof in any advertising manner on the vehicles they operate, and any such advertising shall include the words Licensed Private Hire.

Any other type of advertising on vehicles must be in accordance with the Councils "Advertising on Vehicles" Policy. Appendix E, sets out the Council's current policy in relation to advertising on licensed vehicles.

## 4.11 Record of Bookings

An Operator shall keep records in the form prescribed by the Council containing particulars of booking and of private hire vehicles operated by them. Separate records must be kept at each premise from which the Operator carries on business. The records shall be produced immediately by the Operator or their employee on request to any Authorised officer of the council or to any constable for inspection. The records shall be kept for at least three years on the premises. The council prescribe the following:-

- An Operator shall keep a true and accurate record of every booking of a Private Hire vehicle invited or accepted by him. The record shall be kept on computer or in a suitable book with consecutively numbered pages. Before each journey commences the Operator shall enter therein:-
  - i. The place at which the booking was received and the date and time thereof
  - ii. The name of the hirer



- iii. Whether the booking was made by telephone, personal call or other means (to be stated)
- iv. The address or other place from which it is to commence, the address or place of destination and the requested time, if any, for the journey to commence
- v. The plate number of the vehicle to be used for the journey
- vi. The name of the driver undertaking the hiring

If a computer is used it must be connected to a printer at all times in order that records can be printed on demand of an authorised officer of the Council, a police constable, or a police community support officer. The records must not be able to be retrospectively altered in any way.

#### **4.12 Vehicle and Driver Records**

An Operator shall keep a record of each private hire vehicle operated by him, such records must contain details of: -

- The name and address of the proprietor to whom the vehicle licence has been issued
- The licence number of such vehicle licence
- The date of expiry of such vehicle licence
- The number of persons for whom the vehicle is licensed

The Operator must have in place a system of ensuring no driver works when their driving licence, insurance or vehicle licence have expired or been suspended or revoked or their vehicle has no valid compliance test in place. That system must be available for inspection at all times by an authorised officer of the Council, a police officer and / or a police community support officer

#### **4.13 Complaints System**

Private Hire Operators must maintain a register of complaints by the public in a format approved by the Council (computerised or hard copy). The format of the complaints register must be maintained in the manner prescribed by the Council.

Upon receiving any 'specified complaint' or allegation regarding any person licensed by the Authority Operators must report it immediately when the licensing office is open, and in any other event within 72 hours.

The specified complaints or allegations are:

- of sexual misconduct, sexual harassment or inappropriate sexual attention
- racist behaviour
- violence
- dishonesty
- breaches of equality

- drink driving (including drivers smelling of alcohol)
- drug driving

In straight forward terms, allegations of criminal behaviour whilst acting as a Private Hire driver. 'Low level' complaints can build up a business profile that can be indicative of a professional development need, or in the worst case the concealing of some potential significant offending or allegations of unsafe behaviour.

These concerns are to be dealt with by a requirement to maintain a 'register of complaints' and outcomes, for inspection by the Authority for a set period, of 12 months.

#### **4.14 Use of Operator Name Following Expiry or Revocation of Licence**

Where an Operator licence expires or is revoked, the name (or a similar name) of the Private Hire company associated with that licence cannot be used by another Operator or person until such time as six months has elapsed since the date of expiry or revocation or in the case of revocation the date on which all appeal processes have been concluded (whichever is the longer).

#### **4.15 Out of Town Hackney Carriages Acting as Private Hire Vehicles in the Kirklees District**

##### Schedule of Drivers

The Private Hire Operator, shall in writing, notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage driver employed or used for Private Hire bookings this will include Hackney Carriage drivers licensed by this or other Authorities.

Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage driver, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.

The Private Hire Operator shall retain a copy of the Hackney Carriage driver licence granted by this or any other authority along with a copy of the driver's DVLA licence, and any other driver of that vehicle, and forward a copy of those documents to the Licensing Office forthwith, and in any event within 72 hours of registering that driver.

##### Schedule of Vehicles

The Private Hire Operator shall, in writing, notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage vehicle employed or used by the operator. This includes those Hackney Carriage vehicles licensed by this or other Authorities.

Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage vehicle, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.

The Private Hire operator shall retain a copy of the Hackney Carriage vehicle licence granted by another Authority along with a copy of the MOT or Compliance Certificate and policy of insurance and vehicle registration document and forward a copy of those documents to the Licensing Office within 72 hours.

#### Advertising on Vehicles

Where a Hackney Carriage vehicle is licensed by another Authority, such a Hackney Carriage driver or Hackney Carriage vehicle is expressly prohibited from using any literature, any documentation, any advertising or displaying any signage associated to the Private Hire Operator or Kirklees Council which suggests or might lead to a misunderstanding that the vehicle is licensed by this Authority.

## **Section 5 - Enforcement and Complaints Procedure**

### **5.1 Authorised Officers**

'Authorised Officers' are officers appointed by the Council to fulfil duties and carry out licensing functions on its behalf.

The 1976 Act defines an "authorised officer" as "an officer of a district council authorised in writing by the Council for the purposes of this Part of the Act".

Authorised Officers have the right to do the following: -

- require drivers to produce licences and insurance certificates;
- require operators to produce records;
- to remove plates and discs from vehicles;
- to inspect and test vehicles;
- suspend Vehicles from use;

Obstruction of authorised officers is a criminal offence.

The Council employs Licensing Officers who have the authority to exercise the powers set out in the 1847 and 1976 Acts.

Licence holders should be aware that licensing officers Bradford, Calderdale, Wakefield, Leeds, and York are also authorised, by Kirklees Council, to carry out the checks and actions detailed above. Equally licensing officers from Kirklees Council are authorised to carry out the checks and actions above on vehicles and drivers licensed by another member of the West Yorkshire Combined Authority.

### **5.2 Complaints**

The Council will investigate all complaints made. Whilst investigating the complaint officers may invite the licence holder for a formal recorded interview. This is to ensure a full account of the interview is made and is there to protect the licence holder as well as officers.

Licence holders should be aware that where complaints of a serious nature are made i.e. complaints of a sexual nature, a licence maybe suspended and / or revoked while the complaint is investigated further.

Where appropriate a substantiated complaint, or a pattern of un-substantiated complaints, may result in the licence holder being referred to the Council's approved training provider for formal training. This will be at licence holders own expense, and the licence may be suspended in the meantime.

The Council also wants to ensure that remedial training or advice is provided to licence holders whose standard of driving or behaviour falls below the standards required and

pose a risk to their passengers. Licence holders may be required as part of their licensing conditions, to attend and pass any module of the initial driver training, or the awareness session, or any other type of training.

It is important that, when submitting a complaint, as much information as possible is included along with any supporting documentation that can be used in order to substantiate such a complaint. It is expected that licensees, will at all times act with integrity and professionalism. Complaints in regard to conduct and professionalism will be dealt with on a case by case basis and appropriate action taken where necessary.

### **5.3 Enforcement**

The primary aim of the licensing authority is public safety and to provide a service that businesses and individuals can depend on for reasons of health, safety, welfare, equality and consistency.

The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered. In addition, the Council will undertake periodic auditing of currently licensed drivers and vehicles to ensure that perverse or wrong decisions are discovered and corrected. Such audits will be conducted using this policy as the required standard.

Therefore, the undertaking of compliance and enforcement checks on licensed drivers is essential in order to achieve this. Ultimately these checks are undertaken in order to ensure licensees continue to be fit and proper (as referred to in Appendix A and Section 2.2), are complying with the law and the conditions of their licence and to ensure the safety of passengers, pedestrians and other road users.

In order to achieve this objective the licensing authority ensures that licensed drivers are complying with statutory requirements, licensing conditions and byelaws; undertaking regular enforcement and compliance checks, whether it would be independently or with partners such as West Yorkshire police and the Driver and Vehicle and Standards Agency (DVSA).

A broad range of tools and powers are available to the licensing authority should breaches of compliance be found. The following options include but are not limited to:

- No Action;
- Informal Warning;
- Formal Warning;
- Review;
- Suspension;
- Revocation;
- Simple Caution; and
- Prosecution;

Where appropriate and where there are causes for concern the licensing authority will pass on information to partner organisations such as the police or the Kirklees Safeguarding Children Board.

Equally, the licensing authority will act on information received from those and other partner organisations and deal with complaints in line with the Council's complaints procedure.

In line with the Regulators Code and the Council's enforcement policy the licensing authority will choose the most appropriate form of enforcement under the circumstance. The licensing authority has at its disposal a range of enforcement and non-compliance options.

### **Illegal Plying for Hire**

Illegal plying for hire (when a person driving a vehicle other than a licensed hackney carriage takes a fare that is not pre-booked) is a serious offence. Not only is it illegal but it puts the general public at great risk and has wider implications for those drivers and services that are operating legitimately, specifically in terms of lost revenue.

The licensing authority will, where it sees fit and where there are known hotspots and/or areas of concern (as identified by information gathering by enforcement officers, the police, complaints received by the general public and other licensed drivers), use licensing officers as covert passengers, therefore enabling the gathering of evidence and a greater prospect of taking legal action.

In taking such action, the licensing authority will;

- Endeavour to recover the costs of prosecutions from those convicted in order to reduce the financial burden on licensed drivers who work within the law;
- Officers will refer any current licensed drivers at the point where that there is sufficient evidence for the licensing authority to submit a file for legal proceedings to be brought against that driver;
- Unless there are exceptional circumstance offenders should expect to have any licences they hold immediately revoked and/or any application for a licence refused in line with the fitness and suitability criteria attached at Appendix A

### **Driving Whilst Unlicensed**

It is very important to note that offences can be committed by the driving of a Hackney Carriage or Private Hire Vehicle by un-licensed drivers.

Hackney Carriage and Private Hire Vehicles remain licensed at all times a licence is in force, and cannot be driven otherwise than by an appropriately licensed driver. This extends to any unlicensed driver, including members of the family of the licensed driver.

Contravention of this rule may also result in the offence of driving whilst un-insured (and/or) permitting another to drive while uninsured.

## **5.4 Offences**

There are several specific offences that apply to the hackney carriage and private hire trades. The 1847 Act and Bye-laws made under it together with the 1976 Act all have offences contained in them and are the ones to be aware of. Copies of the offences can be viewed at Appendix J.

In addition, all those concerned with the private hire and hackney carriage trades should make themselves aware of the relevant provisions of the Road Traffic Act 1988 e.g. speeding, traffic signs, insurance and defective vehicles.

## **5.5 Rights of Appeal**

Any person aggrieved by a requirement, refusal, or other decision of a decision of the Council, including authorised officers, may appeal to Kirklees Magistrates' Court.

The 1976 Act makes special provisions relation to rights of appeal. Certain decisions in relation to applications being refused etc. are suspended until the 21-day appeal period has expired and if an appeal is lodged until such appeal is disposed of. On public safety grounds certain decisions may take immediate effect. There are also further rights of appeal to the Crown Court under the Public Health Act 1936.

## **Section 6 – Miscellaneous**

### **6.1 Fares**

The Council is not able to set the fares for private hire vehicles; this is a matter for the operator of the firm the vehicle works from.

In relation to hackney carriage vehicles, the 'Hackney Carriage Table of Fares' is set by the Council and are a maximum fare that can be charged by hackney carriage drivers, which can be negotiated downwards, by the hirer, for journeys within the Borough.

### **6.2 Fees**

The Council is entitled to charge fees in respect of the various licences it administers and legislation provides that the fees charged to applicants should cover the cost of application and administration; and in relation to vehicles this extends to inspection, creation / maintenance of hackney stands, administration and enforcement and training.

Licences surrendered prior to their expiry shall not be eligible for a refund of the unexpired portion of the licence.

Fees are normally reviewed annually in accordance with Council policy.

### **6.3 Hackney Carriage Stands**

The purpose of hackney carriage stands (taxi ranks) is to provide the public with a set location at which they can hire a licensed hackney carriage. Only Hackney Carriages licensed by Kirklees Council can stand on a taxi rank or stand as they are sometimes referred to. A list of ranks is available on the licensing web pages. [TOTO BE INCLUDED FOR FINAL POLICY ]

There is an obligation on drivers when plying for hire in any street and not actually hired to proceed to one of the ranks designated under the 1976 Act. The 1847 Act defines a street as extending to any "road, square, court, alley and thoroughfare, or public passage". Land will only be a street if the public have a right to be there.

### **6.4 Public Registers**

The Council is required by the 1847 Act to maintain a register of licences it issues. These and other information can be viewed on our web page -

<https://licensing.kirklees.gov.uk/paforlpaclive>